

# The Nation.

NEW YORK, THURSDAY, NOVEMBER 2, 1871.

## The Week.

MR. SAMUEL J. TILDEN has brought Tweed's guilt home to him by a remarkable piece of work, which fully justifies what we said last week of the unpleasantness, if one had been erring, of being pursued by him. The Ring got inserted in the charter a clause creating a county "Board of Audit," composed of their precious selves. The "Board" met once for but ten minutes, and turned the whole "auditing" business over to Tweed. This sounds like a joke, but is true. Tweed then went to work, and "audited" as hard as he could, Garvey and other scamps bringing in the raw material in the shape of "claims," and he never stopped till he had "audited" about \$6,000,000 worth. Connolly's part in the little game then came in, and that worthy citizen drew his warrants for the money, which that simple-minded "scholar and gentleman" the Mayor endorsed, without having the least idea what was going on. Another citizen named Woodward, holding a subordinate office in the Supervisor's office, but living in luxury at Norwalk, Connecticut, then took the warrants down to the Broadway Bank, having forged on the back of them any names of which his own or Garvey's graceful fancy had suggested the insertion in the body of the document. Here he divided up the sum among the confederates by making deposits to their credit. Unluckily for Tweed, he, Garvey, and Ingersoll kept their accounts at the same bank as Woodward, and Mr. Tilden, getting hold of the books of the bank, "decomposed" the deposits, as he says, and brought Tweed's share of the plunder home to him—about \$1,000,000 in all. The Joint Committee have reported on the condition of the city's finances, and declare that the discoverable stealings of three years are \$19,000,000, which is probably only half the real total.

It is probably no fault of Mr. George Ticknor Curtis that he has come before the public with an opinion denying the right of the State to sue Tweed, Hall & Co., and reserving that right to the city and county of New York, inasmuch as he has only answered questions propounded to him by the Corporation Counsel. But it is unfortunate for him that his views have been published just now, inasmuch as the public has not got quite over that other "opinion" of his about the Erie litigation, which showed that the proceedings therein were, from first to last, as harmless and edifying as a prayer-meeting, and Judge Barnard as pure as a sucking dove. Moreover, he has, in this instance, brought himself within reach of Mr. Charles O'Connor, whose grasp is unpleasant, and who shakes him up in a somewhat remorseless fashion in a letter to Mr. S. J. Tilden, in which he insinuates that the questions and the opinion are parts of an attempt to impede the Attorney-General's action, and to turn the public mind away from the fact of the thefts to technical quibbles about the proper mode of punishing them. Mr. Curtis's opinion on the point of practice Mr. O'Connor treats almost contemptuously, and instructs him that the State, "as *parens patriæ*, has power to correct by action at law or in equity abuses of corporate and official authority, and may exercise that right in pecuniary matters, though the money abstracted or misapplied should belong to a municipal corporation." Mr. Curtis's "little technical point," as Mr. O'Connor calls it, did occur to the Attorney-General's counsel, he says, and they duly considered it, but passed it by as of no weight. We cannot question Mr. O'Connor's law, but we take leave to remind him that Mr. Curtis is a fellow-creature.

Mr. Charles O'Connor has been offered a nomination for the Assembly, but has declined in a letter of great power, in which he reviews the whole situation, and throws the main responsibility touching reform on the Legislature. He refuses to go into it himself, on the ground that he expects to be occupied closely for some time to come with the legal pursuit of the thieves, and is unwilling to have any

suspicion roused about his disinterestedness by appearing in the political arena. Mr. Horatio Seymour will probably be offered the nomination in his place. There is nothing very new in the rest of the field. Two excellent nominations have been made for the Superior Court Judgeships, William E. Curtis and John Sedgwick, by the Reform Democrats and Custom-house Republicans. Mr. Ledwith, who has been figuring ever since last year as an indomitable reformer, and a convert from Tammany, has "sold out" for a Tammany nomination for the Supreme Court. His resemblance to Judas Iscariot and Benedict Arnold now occurs to a great many people. Mothers will frighten their children by the mention of his name, and when he goes to church the other worshippers will "mutter a prayer" for him, as some papers told us they would do for Winans.

The *Tribune* thinks that, in acquitting Murphy on the charge of cheating the Government in his hat contracts, we only do him "shoddy justice." We, however, do him all the justice the case admits of, or requires at our hands. We by no means present him to the public as an innocent and much injured man. There are some incidents in his career which the Dix Commission leave just as they are, and which are, to our mind, very little short of cheating in contracts—his appearance, for instance, in Tweed's Broadway Widening Commission. We are told that the commission which took the place of the one in which he served made higher awards than his did, but we are not affected by this little circumstance. In matters like this, we walk by faith, and not by sight. We are sure, and sure with a sureness which it is not in Murphy's power to shake, that Tweed did not put him or any other man upon that commission because he thought him honest, and Tweed is not a bad judge of dishonesty. We will go further, and say that no man is fit to be collector of this port or to hold any Federal office, high or low, whom Tweed has put on a commission for the awarding of compensation or assessing of damages. We are, too, of the same mind as ever about Murphy's appearance in real-estate speculations with Sweeny, Tweed, and Connolly. He cannot persuade us, and he has, let us tell him, persuaded nobody, that a combination of this kind was accidental or innocent. We have all got past the stage in which illusions of this kind were possible. We have to repeat that he owes it to the President, who has been extraordinarily kind to him, to resign; and if he will not resign, the President owes it to the community whose affairs he administers to dismiss him.

The Administration has again made a happy stroke about the Washington Treaty in appointing Messrs. William M. Evarts, of this city, and B. R. Curtis, of Boston, as counsel for the United States, to appear with Caleb Cushing before the Geneva Board, in place of Mr. Meredith, who declines on account of ill-health. It would have been difficult to make two better selections if we put aside Mr. Richard H. Dana, Jr., whose non-participation in this great contention everybody must regret. Messrs. Evarts and Curtis were the only two men who achieved any distinction in the Impeachment trial, Mr. Curtis's speech, in particular, being a remarkable piece of forensic oratory, and they made the intellectual poverty of the "managers" painfully manifest. And it is rather odd, and shows how sane views of politics are gaining ground, that after being savagely abused as confederates of "the greatest criminal of this or any other age," they should now be sent by a Republican Administration to represent the nation in the weightiest cause of modern times.

We do not think any good is done by *refuting* Mr. B. F. Butler. There is probably no more worthless character "in politics," which is saying a good deal, and we doubt very much whether he has, in his speeches or other performances, any object in view beyond notoriety, and the gratification of a satanic love of mischief, which seems to be part of his moral constitution, and of which, at his age, he probably could not rid himself, even if he tried. Moreover, we doubt whether he has any influence anywhere outside of his own district, or can ever acquire any

influence anywhere, by voice or pen. His power over men, such as it is, like that of his great master, is acquired by subterranean personal intrigue and activity, and, of course, the area over which a mere man can use these instruments is necessarily very limited. Therefore, we do not believe it was worth anybody's while arguing against his late utterances at Philadelphia on the Treaty of Washington. Nevertheless, we are not sorry that they called out an article in last week's *Independent*, in which an able hand takes up the few points in the treaty which Butler managed most grossly to misrepresent, and sets them in their true light before the country. It shows, in the first place, that Butler did what the *Tribune* calls "telling a wicked lie" when he said that, "as appears by the protocol, the British commissioners demanded that they the [three rules] should be enforced on every other maritime nation before they [Great Britain] would be bound by them." There is no mention of any "other nation" in the protocol to which Butler refers, and the treaty itself simply binds the parties to "bring the rules to the knowledge of other maritime powers, and invite them to accede to them"—a wise and humane and enlightened pledge, which must have made Butler's master roar and scratch terribly when he heard of it. Butler also said that the treaty "does not settle, in terms nor by implication, how far the claims of British subjects shall be recognized in property to their slaves freed by the war and by the proclamation of President Lincoln." Now, he had before him, as the writer in the *Independent* shows, the very protocol which reports that the American commissioners asked the English commissioners what they were to expect on this very point, and that the English commissioners replied, "that, by the law of England, British subjects had long been prohibited from holding slaves, at home or abroad," and that "no claim on behalf of any British subject for slaves, or for any property in slaves, would be presented by the British Government."

In illustration of what we said last week about the low opinion entertained of each other's morals by the two factions of the Republican party, we may mention that since then the *Tribune*, having called attention to the fact that Bob Murray, late United States Marshal of the district, offers "to go into court" and prove Tom Murphy guilty of bribing detectives to abandon the collection of evidence against him on a charge of defrauding the Government, the *Times* replies by calling attention to the fact that Hugh Hastings offers "to go into court" and prove Senator Fenton guilty of selling his veto when Governor of this State. Would that all the gentlemen who have charges against each other, or hold "papers" over each other, could be induced "to go into court" together, and make a clean breast of it! If they would appoint a day when they would all march in procession to the City Hall for that purpose, we think we could promise them as large an escort of delighted citizens as ever turned out on any public occasion. The only possible objection we can think of to their all rushing to the bar together is the interruption it would cause to the regular judicial business of this great commercial community. But we would heartily support a measure creating a court for their special use. It would, however, in order to be thoroughly effective, have to be armed with every kind of procedure known to human jurisprudence—civil, criminal, and military.

The end put to the isolation of Utah by the building of the Pacific Railroad proves to be, as every one must have foreseen that it would, the beginning of the end of the Mormon State. The same joint action of the military and the United States courts which we are witnessing in North and South Carolina has brought the Mormon leaders within the reach of the law, and in the past ten days a prominent elder, the Mayor of Salt Lake City, and Brigham Young himself, have received sentence as criminals, or been held for trial. Elder Thomas Hawkins, an Englishman, was convicted last Friday of adultery, on the complaint of his first wife, who came over with him, and sentenced to imprisonment with hard labor for three years, and to pay a fine of \$500. A Mrs. Cook has been successful in a suit against Brigham Young, which was tried before a mixed jury of Mormons and Gentiles, in recovering certain trust moneys for which he had failed to account. Mayor Wells was arrested on a charge of murder committed some time

ago, but was allowed bail by the judge, that he might continue to attend to his official duties. These three suits illustrate very well the three sides of Mormonism on which it is exposed to attack. As for polygamy alone, a better mode of disposing of it could hardly be selected or desired, and its death promises to be easy and natural. The class among which the saints found their dupes so readily is likely to be cowed by the arraignment, through superior force, of their prophets and rulers, and the disposition either to migrate again or to resist has no longer any support in their geographical relation to the rest of the country. But there will be neither statesmanship, justice, nor humanity in pushing on this process without regard to the effect on families, and particularly on women, of a sudden break-up of the Mormon social organization. What is to become of the women who are to be thus driven from their husbands? As they have been led into this organization with the connivance or countenance of the United States, Congress should certainly offer them some temporary refuge, at least, from destitution. This consideration is made all the more imperative by the fact that we are outraging the religious feelings of a large body of people in carrying out our views of social propriety. One's satisfaction, also, in the suppression of the Mormon contrivance for the unlimited gratification of lust is tempered by the thought of the easy divorce arrangements of so many Northern States, which contribute to the same end.

The Ku-klux arrests in South Carolina continue lively, and on a large scale. Those made in Spartanburg consisted mainly of "low white trash," who implicated, however, leading citizens and politicians, so that some of these have deemed it expedient to quit the State abruptly. We believe it is to be said, in justification of the application of martial law, that the number of disturbances was very much greater than the telegraph or the newspapers have ever reported. The aggregate of violence has not, perhaps, been underestimated, but this is owing to the exaggeration of the few outrages that have come to light, and the suppression of the rest. Business men who have had dealings with South Carolina have been enabled to judge more correctly of the widespread demoralization of society in that State; and they will not deny that this chronic disorder, rather than any exceptional and sporadic atrocities, demanded military intervention, if that remedy was to be used at all. Here, as in North Carolina, and *a fortiori*, we must be allowed to doubt the permanence of the cure. With much good material and good-will among the better class of Southerners, in Charleston and Columbia particularly, there is wanting a grasp of the situation, a perception of the only way out of it, and even a slight movement towards that way; and the spectacle is anything but encouraging. All the weakness of the State might be summed up in one word—ignorance; and there is as yet no party which can be called the party of light. The poor whites and the negroes who are arrayed against each other are companions in that intellectual and moral darkness which the school-house can only partially dispel, and which must probably be left to the slow-working agency of death.

We seem to have conveyed the impression by our remarks last week on General Barlow's experience in the marshalship of this district that he was driven into resigning by the importunities of the local politicians about offices. It was, however, not our intention to do anything of the kind. The fact was, we understand, that their complaints produced no effect whatever on the President, and their impudence and assiduity produced none on General Barlow, or, as he might say, if he wished to be "scathing," only excited his pity and contempt. He went out of the office solely because it required a greater pecuniary sacrifice than he was willing to make—the salary being small, apart from the stealings, which an active and unscrupulous patriot can make considerable.

Judge Pearson, of Harrisburg, has discharged Mr. Evans, the Pennsylvania claim agent, from arrest on the charge of embezzling State funds. He said he would have held him to answer before a jury if he had been a State officer, which he was not, but an attorney-in-fact, with a right to withhold his compensation from money in his hands belonging to his principal. The court said that he was not



entitled to ten per cent. on his collections under the Governor's power, but the State authorities erred when settling with him in refusing to allow him any compensation whatever. In the civil suit, which is also pending, the Court reduced the bail from \$400,000 to \$100,000. The counsel of Mr. Evans in this city wrote to us after our last paragraph appeared, complaining that we insinuated that Mr. Evans had made an improper use of the first \$2,000,000 he collected for the State, whereas he paid it over to the United States, to whom it was due. We did not intend to insinuate anything of the kind. We simply charged Mr. Evans with making no reports for four years about a fiduciary transaction on which he had bound himself to report half-yearly, which we said, and say still, was suspicious behavior, and gave anybody a right to make any surmise he pleased about the motive of his silence.

There is an unusual lull in French politics, owing to the recess of the National Assembly, the somewhat indefinite, and, therefore, little-exciting, result of the elections for the councils-general, and the conclusion of the triple convention with Germany, which seems to have settled the relations between the Republic and the Empire for a long period to come. In accordance with that treaty, the Germans are evacuating—if they have not completely done so—the six departments in the East, “the occupation of which, according to the terms of peace, was to last until next May”—to use the words of the Emperor William, in his late opening address to the Reichstag, who paid M. Thiers the compliment of stating that he permitted their immediate evacuation, “relying upon a steady, continuous development of the internal condition of France.” The principal obstacle in the way of this development is, and unfortunately will be for a long time still, the “steady, continuous” flow of indemnity money into the treasury of the accommodating emperor, which not only tasks the resources of France and the financial ingenuity of her statesmen to the utmost, but has also created a very unpleasant scarcity of the circulating medium in commercial circles. Could M. Thiers for a moment forget the difficulties of the financial situation, his political position, in the present juncture of affairs, might appear to him favorable and encouraging beyond expectation. The reorganization of the army is steadily advancing; the political prisons are being emptied; the invaders are rapidly withdrawing from French territory; the relations with foreign powers daily becoming more friendly; affairs in Algeria are slowly improving; and, what is more, none of the parties contending for the future rule of France is at present in a condition, or even in a mood, to trouble her peace. The Bonapartists themselves seem to have determined upon a reconquest of their former glory by the slow process of a peaceful propaganda, beginning with the exaltation of their fallen chief into a “martyr of Sedan.” Their main organ, the *Ordre*, has already made a number of converts to this new imperialistic dogma.

Paris is having the cost of going to war, and then setting two revolts on foot, and standing two sieges, placed before her eyes in a way that is quite new to her. A report on the actual condition of her industry has just been made to the Municipal Council, and it is indeed a dismal tale. The hotels are less than two-thirds full; a large number of the smaller restaurants are closed, the customers being dead or gone. Of 30,000 persons engaged in the fine-boot manufacture, 6,000 were foreigners, who have all fled, and of the 24,000 French 12,000 have disappeared, “slain, imprisoned, or in flight.” Of the 30,000 tailors, one-third have disappeared, and the trade has fallen off one-half. Of the cabinet-makers, 5,000 out of 20,000 are missing, and their places are being supplied by Germans, but the best workmen have emigrated, and for good. The best jewellers and goldsmiths have gone to Brussels, London, and New York. In short, Paris has lost about 100,000 of her most skilful workmen and half her industry. Orders which now come into Paris for work for which she used to be famous cannot be executed, and the probabilities are that in many branches her supremacy is permanently lost. The empire has at last fairly closed its existence, by the sale at auction of the Emperor's and Empress's old clothes left in the Tuileries, among them what one

French paper calls “les objets les plus intimes de la toilette.” A more appropriate ending to that great imposture could hardly have been devised, though it would have been more effective if some of the raiment of the court-circle could have been knocked down too, including the gorgeous robes of the “Americans in Paris,” who were amongst the humblest and most grateful of the hangers-on of the Tuileries.

The late French Minister at Berlin, Benedetti, who was one of the best abused of all the men connected with the outbreak of the late war, has written a book in his own defence, which has just appeared. He says the story of the insult to the king on the promenade at Ems is pure fiction. His intercourse with the king was pleasant throughout. He asserts and proves that, so far from leaving his government in ignorance of what was going on at Berlin, he kept them well informed as to the formidable character of the new Prussian military organization, and this, coupled with Colonel Stoffel's reports, makes the conduct of the Emperor still more inexplicable. M. Benedetti maintains his old position as to Bismarck's having dictated the famous draft of the “secret treaty” to him, and strengthens it by bringing to light his own report of a hint received during or just prior to the Austrian war, that France might compensate herself for Prussian aggrandizement by the annexation of some French-speaking territory (either Belgium or Geneva), but that the king would not cede any portion of Prussian soil. He adds, moreover, that he distinctly warned his government that something in the nature of an alliance was being projected between Prussia and Italy in 1866, but nothing seemed to rouse Napoleon from his lethargy, and when he did rouse himself he found Bismarck utterly indifferent to his feelings or his action. M. Benedetti distinctly fixes on the French government the ultimate responsibility for the war, by showing that they were lashed by the taunts of the Opposition press into making the absurd demand, not only that the king should obtain the withdrawal of the Hohenzollern candidature, but should promise never thereafter to permit it, and that they rushed into hostilities because, being conscious of want of preparation, they were anxious to anticipate the Prussians, and get the first blow, and therefore hurried to the Rhine half-organized, and ripe for the ruin which came right speedily.

We have heard as yet little from the German Reichstag, opened a fortnight ago. The Government, as the Imperial opening address, now before us in full shows, will introduce at this session no project of a new army budget, which, as was feared, would have given rise to very serious, and perhaps very untimely, debates, but demand “that the period of transition for the military budget, which, according to the constitution, expires at the end of this year, shall be extended to the coming.” The reference in the speech to the relations with the Austro-Hungarian empire, though not couched in the words transmitted in the Cable abstract, is as friendly and decided as reported. These relations, placed on so “friendly and neighborly” a footing by the late imperial and diplomatic meetings at Ischl, Gastein, and Salzburg, are now likely to become the more undisturbed, as the German policy, represented by Chancellor Beust, has finally achieved a decided triumph in the councils of Francis Joseph over the Slavic policy inaugurated by Count Hohenwart and his Cisleithan Cabinet. The Czechs, flushed by the victories of the Slavic populations in the recent elections in various provinces of the empire—victories achieved with the aid of Ultramontanes, Feudalists, and Government officials—pressed their claims to national autonomy, in the address of the Bohemian Diet, to a degree which Francis Joseph, after having made them extraordinary concessions in his opening rescript, deemed incompatible with even the feeble remnant of integrity and centralism he intended to preserve for the Cisleithan half of his already divided monarchy. Count Andrassy, the Premier of the Hungarian half, in vain proposed a compromise. His mediating scheme was rejected by the Czech leaders. The resignation of the Hohenwart Ministry was the consequence, and the Emperor—much to the surprise of the Czech hotspurs, we presume—accepted it.

## THE LABOR MOVEMENT IN ENGLAND.

THE strike at Newcastle-on-Tyne, which has at last come to an end, has been in many ways the most remarkable of all strikes. Its magnitude as well as the costliness of this method of settling disputes between labor and capital, may be inferred from the fact that, according to the estimate of a competent authority, it caused a loss to the trades during the five months of its duration of \$1,200,000 in orders, and to the shipping of \$500,000, to say nothing of the enormous sums spent in the support of the workmen, of the severe injury inflicted on the small subsidiary industries, and of the departure of some of the best mechanics to other fields of labor. That the suffering among the strikers must have been very great in spite of the unprecedented efficiency of the trades-union organization by which the strike was supported, and of the liberality of the contributions made to its funds by men of other trades all over the kingdom, may be inferred from the fact that the death-rate at Newcastle rose, during its continuance, from 25 to from 40 to 50 per 1,000—that is, nearly doubled. In short, the struggle was marked by almost as much destruction of life and property as if it had been an armed conflict. It must be confessed, too, that when one comes to examine the points in dispute, and the results finally attained, it makes on one almost the same painful impression of waste, barbarism, and absurdity as the plan of deciding international controversies over questions of legal or moral right by killing large bodies of young men.

What the men sought was the same pay for fewer hours of labor; what the masters sought was the same amount of work for the same amount of wages in a season of unusual prosperity. After trying desperately for nearly half a year to ruin each other, they have ended their differences by a compromise. The men sought to make nine hours instead of ten in five days, and nine on Saturday, or fifty-four hours a week instead of fifty-nine, the limit of their labor; they now go to work for three months at fifty-seven hours a week, and from the first of January at fifty-four; that is, they have carried their point as to time, but not immediately. The masters, on the other hand, have won the concession that overtime, which is paid for at an extraordinary rate, shall not count until the man has made his fifty-four hours in the week; that is to say, that it shall not be open to a man to idle one day and work overtime the next. The principal result of the struggle is that nine hours becomes a day's work in the engineer's trade.

This is the dark side of the strike; the bright side we find in the fact, which even journals which have as little sympathy with the working-classes as the *Pall Mall Gazette* acknowledge, that in the conduct of the controversy—in patience, in temper, and in skill—they had decidedly the advantage over their antagonists; they produced from their own ranks advocates who, at nearly every step in the discussion, put the masters in the wrong, by their courtesy, self-restraint, and dialectical ability. In particular, they exposed, without directly calling attention to it, the absurdity of the double mode of treatment in which the masters, in these disputes, have frequently indulged, which consists in treating a strike as at one and the same time the mutiny of an army against its officers, and a quarrel in open market between buyers and sellers over the price of a commodity. If labor be, indeed, as the masters strenuously insist, a commodity, it is folly to treat the exorbitance of the men's demands for it as disrespectful—ground which, at the opening of the strike, Sir William Armstrong, the celebrated gunmaker, who conducted the masters' case, seemed to take. We may assume now, that when disputes of this kind occur hereafter, masters and men will treat each other in form as what economists say they are in fact—equal parties to a bargain. The *London Economist*, as sensible and considerate a paper as exists, was at the outset disposed to treat the complaints of the men in the Newcastle strike on this score as silly, and perhaps from a purely philosophical point of view they were silly; but the divisions between classes which are the bane of modern society and of modern industry are not to be settled from a philosophical point of view simply, and are largely affairs of sentiment and of manner. At all events, sentiment and manner have a good deal to do with keeping them alive. The sensitiveness of the working-classes on this point is hardly to be found fault with, seeing the enormous part manner plays in regulating

the intercourse of the members of the employing class with each other; and we doubt much whether this division will ever be bridged over without greater assimilation than now exists in the forms of intercourse between class and class, to those which prevail among members of the employing class. The somewhat brutal self-assertion of the democratic workingman will never disappear until the democratic capitalist gets rid of some of his arrogance.

The Newcastle strike is perhaps most valuable, however, as an illustration of a point which we have often raised in these columns, that is, the fallaciousness of the doctrine that the law of supply and demand can be relied upon to settle the rate of wages at a given place and within a reasonable time, as long as there exists the present gross ignorance as to the condition of the market on the part of one of the parties to the bargain. One of the peculiarities of modern industry is, that seasons of prosperity come suddenly, and are often brief in their duration. The increased demand for labor which they create may not, and mostly does not, make itself felt in the market until they have passed away. In such a trade as that of the mechanical engineers, for instance, requiring enormous plant and capital, it is sheer nonsense to talk of sudden increase of profits creating a corresponding competition for labor on the part of capitalists within any reasonable period. No doubt steady and prolonged increase in the demand for the products of this industry would gradually draw into it a greater quantity of capital, and thus raise wages, supposing, as it is fair to suppose, the quantity of skilled labor like this undergoes no correspondingly rapid increase. The rule, however sound it may be in the long run, does not work in brief periods of prosperity, such as English industry is now enjoying, and in the fruits of this prosperity English workmen, being human, desire a share. Perhaps on a general view of the profits of capital through a series of years, they are not entitled to share in it, but, like the rest of the world, they want to make hay while the sun shines; and if the masters have to make provision for seasons of depression, so have they.

No plan has yet been discovered of preventing the working-classes from expecting and demanding, and seeking to obtain by every means in their power, a share in the profits resulting from increased briskness of trade, however brief. Legislation, denunciation, admonition, have all been tried for this purpose in vain. The sole protection which the master now enjoys against their exactions is their ignorance of the condition of the market, if indeed this can be called a protection, for we venture to assert that it leads nearly as often to strikes for an increase of wages when the state of trade will not admit of it as when it will; that is, the workingmen strike half the time in vague suspicion that the master is making money rapidly. They are sometimes right, but they are sometimes wrong; and, whether right or wrong, this mode of getting at a simple business fact is a disgrace to our civilization as well as to our industrial organizations.

Nobody can watch any strike without seeing that, after making all allowance for defects of temper from the operation of class-feeling on the part of the men, the one thing needed, either greatly to reduce the number of strikes, or to do away with them altogether, and, in fact, to destroy the feeling of antagonism between labor and capital, is the provision of some means of making the workingman familiar with the machinery of industry. The responsibility of this for the present lies mainly with the capitalist. It is pretty plain now that he does not retain the control of his business by hiding his affairs from observation. He conceals the amount of his profits from his laborers at present at a cost which threatens before long to leave him with little or no profits. It seems as if it was for him to discover some rational mode of letting the workingman know when a rise in wages can be borne, and when it cannot. But we confess we doubt still whether any complete solution of the difficulty will ever be reached except through the conversion of a large proportion of the working-class into co-operative associations or "industrial partnerships." The difficulties and conditions of business cannot be understood by persons of small education and little used to speculative enquiry except by practical acquaintance with it. The trials of a capitalist will never be understood by a workingman until he shares them in a greater or less degree. The talk one hears at labor conventions about the tyranny of capital seldom comes from men who have "been



in business for themselves." The horror which is expressed at the meetings of these bodies over the accumulation of large masses of wealth in the hands of few individuals, curiously enough seems to be rarely inspired by the obvious objection that great wealth gives a man great power. On the contrary, it seems mainly to flow from a vague belief that the great mill-owner or railroad man or coal-miner lives in the gratification of his sensual appetites; in other words, in pure luxury; while the poor man is starving on the sidewalk or shivering in his garret. How very little reflection those who say most about this matter have really bestowed upon it, is revealed by the question which they never ask themselves, and never answer—What do the rich men in our industrial world do with their money? Why, they invest it; that is, use it in production, just as a co-operative association would do; and it is of the highest importance to the community that such men should have great sums to invest, because they have proved themselves good judges of what will pay and what will not; that is, of the best mode of employing the wealth of the country so as to produce more. The notion that workingmen would, if they had the money, turn it to better account for themselves even, is utterly baseless. So is the notion that what the capitalists spend on themselves forms any considerable portion of the returns of industry. We doubt if it is an exaggeration to say that the annual amount devoted to the personal expenses of the great capitalists of the United States would not, if divided, give the workingmen a dollar a piece. That great capitalists often abuse the power that money gives them, we do not deny, but we doubt very much whether any of these abuses has as yet resulted in the material injury of the working-classes.

One of the curious signs of the times was the active participation of a lady in the Newcastle controversy, by means of a pamphlet of remarkable ability, showing the absurdity of the workingman's prejudice against capitalists, as such, and of the belief that the possession of capital in large quantities by individuals was injurious to working-class interests. It had a very wide circulation, and is said to have exercised a good deal of influence in producing the remarkable calmness and self-restraint which characterized the labor side of the conflict. We are being treated on this side of the water to an equally favorable indication of the growing supremacy of good sense, in the appearance of Miss Anna Dickinson with a lecture in the form of an assault on the noisy male windbags who now go to and fro through the land stirring up the workingmen against their employers, and driving all rational views of life and social organization out of their heads with vapid declamation about "wrongs" and "rights." If Miss Dickinson can stick a pin in these "organs," she will do the state some service, and make us all regret the labor she spent on "caste" and other airy abominations.

#### JUDGE UNDERWOOD AND WOMAN SUFFRAGE.

An important fact was recently made public. Judge Underwood, of the United States District Court in Virginia, has pronounced an opinion—extra-judicial, it seems—that through the operation of the Fourteenth and Fifteenth Amendments to the Constitution of the United States, women have now the full and absolute right to vote at all elections, State and national, and that the cause of woman's rights, so far as it has a political aspect, is thus already won. When Mrs. Victoria C. Woodhull announced this doctrine to the amazed advocates of woman suffrage, and was thereupon, with only a murmur of opposition from the "Boston clique," placed at the head of the movement, we must confess we gave little heed to the new gospel, because we did not then know that she received her inspiration directly from the angelic and spiritual world, and was assisted in getting up her arguments by Demosthenes himself. When General Benjamin F. Butler gave his adherence to this latest constitutional construction, we still doubted; because, for some reason or another, there is "a feeling abroad in the land," as the reporters say, that the General's convictions do not always keep pace with his utterances. But now, when that great and good jurist Underwood ranges himself on the side of this doctrine, we confess we feel shaken. We must pause and examine the ground on which we stand.

Still, even at point-blank, some impertinent questions suggest themselves, and will not be suppressed. Why, for instance, did the Judge make choice of the Fourteenth and Fifteenth Amendments as the basis of his opinion? Why did he not take other amendments, and read them large enough to cover Woodhull, Cladin, and all their disciples? There, for example, is the Thirteenth. To be sure, it does not say a word about women nor about voting; but that should be no difficulty in the way of a free interpretation in the interests of progress. It declares that slavery shall not exist within the United States; and is not the condition of women that of slavery? And is not the deprivation of the right of self-government, the electoral franchise, one of the plainest badges of this servitude? In fact, if Judge Underwood will only examine it, he will find this Thirteenth Amendment full of matter from which a hundred different reforms could be constructed by those vigorous minds which, like his, are liberated from the authority of base precedent, which despise the inconvenient trammels of intention and design, and work under the broad rule, "they builded better than they knew." Nor is it to be doubted that most of the other amendments would, upon a careful scrutiny, be found to contain, in a germinal and undeveloped form, the very same principle which, we are told, is fully expressed in the latest additions to the Constitution. Another of the impertinent questions that will suggest themselves is, why is the operation of these fruitful amendments confined to women? They make no mention of women; they ignore the existence of sex; they speak only of "persons" and "citizens." It was natural that Mrs. Woodhull should have overlooked this point; her nature, we are told by a sympathizing biographer, is airy, seeking solitude upon the housetop. But Judge Underwood is a jurist; he has a judicial mind, trained by study, and by forensic disputations, to look at every side of a legal or a political doctrine. He knows that a babe just born into the world in these United States is as much a citizen of this great—and, out of deference to the Judge, we will say glorious—country as his grandmother who is just about to drop into her grave. The Judge knows, also, that whatever rights the amendments in question confer upon "persons" or "citizens" belong to that little babe as fully, as completely, and as absolutely as they do to Mrs. Woodhull or to the grandmother to whom we have referred. Why, then, we repeat, did the Judge restrict himself to women? Does he think that great movements, stupendous reforms, should be made by instalments? Can he have adopted the cowardly opinion, hateful to all true professional reformers, that a part, though not so good as the whole, is better than nothing? We cannot believe this of the Judge; it is a doctrine which savors too much of the blind conservative; it is altogether foreign to the nature of the true disciple of progress.

We shall, though we feel that we owe our readers some apology for doing so, now say a few words on the matter, because the preparations for the winter campaign already begin to be heard in the woman's rights camp, and because, as experience proves, there is a considerable number of tagrag politicians, both at Washington and elsewhere, awaiting conquest and conversion. We do not care particularly whether these people give in their adhesion to "the cause" or not, but they are men, and we desire, for the honor of their sex, that, if they do so, they shall give some better reason for it than that with which Demosthenes has supplied Butler and Underwood. The whole thing is a farce, but farces in which American Congressmen and judges play a part reflect discredit on the whole country.

The original movement which had for its object the attainment of political capacities and rights by women was legitimate, and entitled to respect. It fought its way by argument, and could only be successfully opposed by argument. In constitutional governments, every great reform has been accomplished by a long-continued and skilfully-managed agitation, which has finally brought the truth and conviction with it home to the whole people. It was in this manner that the Reform Bill, Catholic emancipation, the repeal of the corn-laws, legal reform, and many other causes triumphed in Great Britain; it was thus that preparation was made for the overthrow of slavery in the United States. An agitation, therefore, in favor of woman's political rights was proper; it commanded respect even where it had not produced conviction; and it is possible that it would have accomplished its object. But now this

agitation is abandoned; the old leadership is surrendered, and a new policy is adopted which seeks success by a trick. We are told that woman suffrage has already been conferred, and that all a woman has to do is to insist upon voting. This claim is in itself hardly worth the trouble of an argument to refute it. It is based partly upon ignorance and partly upon effrontery. It ignores or denies all that has been settled in the public law as to civil rights as distinguished from political capacities and rights. It seeks to force itself upon a people which is unconvinced, and upon courts and legislatures which are hostile. But there is another and graver aspect of this matter. The advocacy of the doctrine tends to bring the Constitution into contempt, and to weaken the popular belief in it as the fundamental legislation of the land. If this doctrine were pushed to its legitimate results, it would simply destroy the Constitution as a conserving element and influence in the national jurisprudence and politics. Many persons, when they hear that Butler and other legislators, or Underwood and other judges, pronounce in favor of the interpretation which was conceived in an adventurous woman-stockbroker's office on Wall Street, are ready to give up all faith in any form of sound words, and to adopt the popular whim or impulse of the hour as their only political guide. This, and not any anticipated adoption of the heresy we are examining, is the danger to be met. The organic law should be treated as a collection of broad general principles, easy to be understood and to be interpreted by a common-sense standard. It should not be treated as a pettifogger in a horse suit would construe a statute.

We have said that the interpretation to which General Butler and Judge Underwood have given their adhesion is a mere trick. This is evident when we recur to the history and design of these two amendments. Congress had passed a statute known as the Civil Rights Bill, with the avowed object of protecting colored persons against lawlessness and against the injustice of State legislatures and courts. This statute defined citizens, and placed them, so far as their civil rights are concerned, upon an equality. A doubt existed whether this statute was valid. The first section of the Fourteenth Amendment was proposed to remove such doubt, and to be the broad and equitable foundation for a protection of civil rights against State usurpation. Not a word does it contain in reference to the electoral franchise or any other political capacity or privilege; nor, while pending before Congress and the States, was a suggestion made that it interfered with, or had any effect upon, the matter of voting. That matter was, so far as this first section is concerned, left where it had before been, under the control of the States. But if the States were to remain supreme in respect to the electoral capacity of their inhabitants, it was feared that, in all the Southern States and in many Northern ones, the blacks would be excluded from the polls by local legislation. This contingency was provided for by the second section of the amendment, not by taking away the power of such legislation, but by imposing a penalty upon its exercise. When the right to vote "is denied to any of the male inhabitants of such State," etc., the representation in Congress is to be lessened. This section, it will be observed, is the only one which expressly refers to voting. By its penal provisions, it declares that the first section does not have the effect now claimed for it—does not confer the electoral franchise among the rights and privileges of citizenship; for, if the first section has such a wide effect, it reaches negroes as well as women—for both are citizens—negroes are enfranchised by it, and the State power of legislation is taken away. The second section, therefore, becomes useless—a blow aimed at a State power which had just been utterly destroyed. If, then, General Butler and Judge Underwood are right, this second section is not only unnecessary, but is contradictory to the first, and very much weakens its meaning and effect. But, again, the second section, by confining its penalties to those States which prohibit "males" from voting, either recognizes the fact that women are not at all within the purview of the amendment, or else expressly authorizes States to deny the franchise to women without incurring any penalty. We care not upon which horn of this dilemma Judge Underwood transfixes himself; each is equally sharp and fatal. The history of the adoption of the Fourteenth Amendment, its object, as openly expressed by its friends while it was pending, and its intent, as

gathered from its clauses, are all opposed to the construction which is now placed upon it. It is this very running in the face of historical fact, this very denial of obvious intent, which tends to make all constitutional interpretation, in the eyes of the public, a farce.

Passing now to the Fifteenth Amendment, the testimony given by its history and design is equally convincing. It was seen that the penal consequence of a State's refusing to admit the blacks to the electoral franchise was not sufficient for the political protection of the colored man; the door was kept shut, and the penalty endured. To remedy this evil, to override the State resistance, to secure for the negro the full rights of suffrage, was the design, and the only design, of the Fifteenth Amendment. Conceding that it accomplishes this purpose; conceding that, without the aid of Congressional legislation, it sweeps away all local statutes and affirmatively clothes a class of persons with a new capacity and a new right, it does no more. "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." Unless women are a "race," or unless their feminality constitutes a "color," or unless they were, as a sex, in a "previous condition of servitude," no suffrage right for them lies concealed in this language.

When we look at the Constitution as a whole, the conclusion is so obvious that argument seems impertinent. Citizenship always existed as it now is. The theory of our Government did not, except in one or two instances, link political rights and citizenship by an inseparable bond of union, so that the one should flow from and be badges of the other. The whole matter of the electoral franchise was entrusted to the States, to be regulated according to their notions of policy, with the single restriction that a republican as opposed to an aristocratic or an autocratic form of government must be preserved. The States have no settled policy and adopted no uniform rules. In none was the suffrage granted to all citizens, for it was everywhere withheld from women and from minors of both sexes. In a few, it was not conferred upon any naturalized male citizens. In many, it was denied to all male colored citizens. On the other hand, in certain States, it was once bestowed upon male persons who were not citizens, upon resident foreigners who had not been naturalized. This general theory yet remains exactly as it stood before the war. There has been no attempt to change it as a whole. The Fourteenth and Fifteenth Amendments only limit its operation in one direction; they take the blacks out from its effect, and place them under the protection of national legislation. We have seen that the Fifteenth Amendment and the second section of the Fourteenth have reference solely to negro citizens, and that the use of the word "male" in the latter completely cuts off any application of it to woman suffrage. We have nothing left, then, but the first section of the Fourteenth Amendment, which only professes to protect the "privileges and immunities of citizens," and to preserve for all persons the rights of "life, liberty, and property," and the "equal protection of the laws," against State tyranny and injustice. The electoral franchise is certainly not involved in the preservation of "life, liberty, and property," nor of "the equal protection of the laws." To say that it is one of the "privileges and immunities of citizens," is to falsify our history, and to overturn the theory upon which the whole Government is based, and to destroy the distinction which exists in every nation and under every form of government, and nowhere more broadly and plainly than with us, between civil and political rights; between rights which make up the legal status of the citizen (*civis*) irrespective of all other considerations, and those rights which are conferred by the State upon a class—large or small—as a part of its public policy and of its system of politics.

#### CHRISTIANS AND THIEVES.

WE are unable to discover, in the authorized report of Henry Ward Beecher's late sermon on municipal corruption, any justification for the severe strictures passed on it by the *Times* and the *Independent*, both of which must, we imagine, have based their judgment on the newspaper summary of it. The whole discourse is, in fact, the ablest and most searching examination of the real cause of the operations of the Ring we remember to have seen anywhere. It passes condemnation on them in language full as strong as anybody has employed, but it urges, and with



great force, the view, which we believe to be thoroughly sound, that it will not do to treat the members of the Ring as isolated criminals; that they are the product of a corrupt social state which we have all helped to create, by looseness in our commercial dealings, by connivance at small frauds and falsehoods, and by the persistent pursuit of low aims. Therefore, we are all in a measure responsible for Tweed, and Connolly, and Hall, although it is true and just that Tweed, and Connolly, and Hall, having stolen, ought to be punished. The passage, and the only one in the whole sermon, in which Mr. Beecher has furnished excuse for the strictures on him, is the following:

"You know that I have been blamed for severity and vehemence and denunciation. Yes, when everybody else was still, I did speak, and I spoke loud; but now, when everybody else is making a racket, I feel more like comforting those who are cast down. *So far as I can do it in consistency with public justice*, I would stand by their side, that they be not overwhelmed. For they are men; and they suffer, many of them, doubtless, as you never suffered. I would never forget in the culprit the humanity. I would look as I suppose God looks upon the great sinning world, abhorring iniquity, and longing to save men out of it. I look upon men who in many respects have good qualities, and long for their redemption. And I would take part of the blame myself. I would also distribute part of it on you."

The italics in the above are ours. It is hardly fair to read or comment on this passage apart from the rest of the sermon. Nevertheless, there are one or two points in it which will, just as they stand, bear criticism. Mr. Beecher here takes what we may call a professional view of the sinner, which ministers, discoursing of these matters, often feel bound to take, but it is not one which, in our opinion, can be properly offered to any citizen, as such, as a rule of conduct. It is not possible, the world being what it is, to stand by Tweed's or Hall's side without weakening the righteous indignation on which the execution of "public justice" depends; and this would be true even if these men had submitted themselves to the law. In addition to this, we doubt the theological soundness of Mr. Beecher's position, though we do so with proper lay diffidence. We deny that there is in the Christian system, or any other system of ethics on which it is possible to base human society, any obligation to pity, or sympathize with, or succor any wrong-doer who has not repented of and sought to atone for his offense. A contumacious thief, who does not deny his theft, but brazenly it out and holds on to his plunder, is, we affirm, not entitled to a Christian man's "comforting" or support. As long as this state of facts lasts, the Christian's place, as Christian, is at the side of those whom the thief has robbed, and any pity or sympathy he has at command is their due. We believe there is no Christian sect which does not make repentance a condition precedent to reconciliation, and we believe, further, that there has been in the practice of the church, from the earliest ages, no departure from the sound and wholesome rule that a "notorious evil liver" is not a fit subject for a Christian man's company and countenance. Mr. Beecher is not entitled to assume, as he does assume, that Hall and Tweed have "suffered," in any sense of that word on which they can base a claim to forbearance or protection. They have given as yet no evidence of any suffering, except such as a criminal necessarily undergoes when he finds himself hard pressed by the police. Tweed does not give any sign even of this. Connolly is the only man of the party who has established the smallest title to any sympathy which a Christian can really give—that is, sympathy with a man who has done wrong, and is sorry for it, and shows that he is sorry by seeking to make amends. We deny altogether that there is in Bible, canons, or traditions, any warrant for the doctrine that sympathy with the perplexity of a criminal who is trying to escape without abandoning his "swag" is a Christian duty, even of imperfect obligation. We may add that any one who finds himself haunted by any such feelings may be satisfied that his moral vision is perverted, and that his breast is the seat of emotions which, from whatever quarter they come, do not descend from heaven.

We will go a little further and say—and we mean no pleasantry in saying it—that the practice of trying to look at the world and at our fellow-men "as God looks at them," in which so many excellent people indulge, is a failure, and had better be given up. There are one or two obvious objections to it. The first is, of course, that God's eyes are all-seeing, while our range of vision is very narrow, and that his voice is almighty, while ours is very weak. That is, when he looks at Tweed, and Hall, and Connolly, he sees the very secrets of their hearts, and knows exactly the degree of their guilt, and can in no wise be deceived by their conduct or their talk. Moreover, it is a matter of complete indifference, so far as the ends of divine justice are concerned, whether they repent now or fifty years hence.

From that justice there is no hiding-place, and it is barred by no statute of limitations—an idea which is expressed in the often-quoted saying that "the mills of God grind slowly, but they grind exceeding small." When, therefore, we see a rogue prospering through long years, proud of his roguery, and revelling in the luxuries it brings him, we have no right to assume that the forbearance of Providence, which is displayed in his case, furnishes a model for our imitation as citizens. In fact, the more firmly a man holds to the theory of the moral government of the world by a personal deity, the further from him should this notion be put. God is not under the necessity of influencing the elections, or bringing the Democratic party to shame, or even of "saving the Republic." Indeed for aught we can tell, it may be in the courts of heaven a matter of no consequence whatever whether the Republic lasts to the end of a century or not. It may be part of the plan of human education that the experiment which is now being made on this continent, fair and full of promise as it seems to us, should fail utterly at the very outset, and leave behind it chaos and despair. Things not unlike it have happened in the world's history, and after-ages have recognized in them, after all, steps in that tremendous march out of mystery into mystery in which the race is engaged, and which marked though it is by faltering here and falling there, and much weariness everywhere, is, we know, on the whole an upward march. To any man who looked out on the world at the close of the fifth century, it seemed as if endless night was settling down on the earth, and yet in the very horrors of that time the foundations of a better civilization were being steadily laid. We doubt indeed if there be any weakness which has done more to bring about the corruption and looseness which we are all mourning over, than these Sentimentalist attempts to imitate the Divine government in the matter of dealing with offences against social morality. God can well afford to let a thief run, because he can catch him whenever he pleases, but we must catch him before he takes the steamer or disposes of the goods. God can indict and convict him now, or half a century hence, with the certainty of doom; we must indict him while the witnesses are living and the courts sitting. It is, of course, open to any of us, as a matter of private moral and religious discipline, to pity him, or forgive him; but our duty as citizens is none the less to join the sheriff in pursuing him, and while on the track to refrain from demoralizing or discouraging the posse, by expressing doubts whether, as we are all sinners, it is worth while to chase him; or whether, when God has borne with him so long, we ought not to bear with him too; or by enquiring how we should like to be hunted down ourselves, or whether his father or mother, or society in general, was not to blame for his thieving.

The government of the world, and the government of human society, as far as Christians or any other men have to do with it, is a government of consequences from first to last. Every man is educated, in large part, and guides his conduct in large part, from the cradle to the grave, by the consideration of consequences. In fact, the work of civilization consists mainly in the diffusion through the human species of an increasing knowledge of and regard for consequences. The more of them a man has, the better citizen, father, and husband he is. We know there are higher motives for right-doing than the consideration of consequences; but they are motives as yet which influence but a few individuals. Ages hence society may possibly be built on them; but at present there is no society which is not held together by the thought of consequences; and the goodness of the government is in the direct ratio of the strength with which the majority of the members of the community are influenced by it. We do not care, therefore, what the reason may be, for which any Christian refrains from cheating and stealing; we hold that he is bound, as a citizen, to take cognizance of the fact, that the reasons for which most men refrain are the fear of legal penalties, and the fear of losing the good opinion and friendly intercourse of their neighbors, and to govern himself accordingly both in his political and social action and in making his contributions to the opinion of his time. Whenever this fear for any reason disappears, Tweeds and Halls spring up at once, and the business of honest men is not to determine the exact degree of their guilt in the eyes of Supreme Justice, both because no men are competent to any such task and because Supreme Justice may safely be left to do its own work; but to see, first, that there is a stop put to their thieving, and, secondly, that the stop is of such a kind as to discourage others from engaging in similar enterprises. The only way of doing this is to take care that adequate legal penalties are annexed to this class of offences—that is, penalties which experience warrants us in believing to be deterrent and capable of enforcement, and that behind the officers of the law there is maintained a sufficient social reprobation.

of thieves and receivers, and of the aiders and abettors of thieves and receivers, to keep the officers of the law up to their work, to afford a proper moral basis for legislation against thieving and receiving, and to impress the minds of the young in their tender years with a wholesome horror of them. If we are right in these positions, any man who receives thieves and their confederates at his house on a friendly footing, or shares their "swag," or finds excuses for them in public or private, or seeks to moderate the public indignation which is sometimes necessary, as in the present case, to give the law momentum enough to override their strength and audacity, undoubtedly does a grievous injury to the state, and, as we believe, if he be "a professing Christian," does incalculable injury to the church.

We say incalculable injury to the church, because it is useless to try to conceal the fact that there is a widespread and growing feeling amongst a very valuable portion of the community, that there is springing up between religion and morality a divorce, or want of connection, like that which swept paganism away seventeen hundred years ago. The early church achieved its triumph by making war on immorality, and it made war on immorality, not simply by preaching against it, but by seeing to it that its members were chaste, temperate, honest, at all events, to all outward appearance. It allowed no man to remain in its fellowship or communion who did not prove his sincerity by his works. That is, it was not open to an early Christian to maintain his standing without purity of life; nor was it open to any man to come into the fold, on the ground that, though not good, he was trying to be good, while all the while stealing and whoremongering. The answer of the church discipline was plain and prompt: "It is possible you really desire to mend your ways; but we must have something more than your word for it; you must give up your particular weakness. If it be swindling, you must from this moment desist; if it be impurity, you must from this moment abandon it. Otherwise, you must depart. We cannot have you here; if we did, the heathen would all laugh at us; our religion would become a byword and a reproach, and you would gain nothing by our society, while we should lose much by yours. We shall not stand by you, or sympathize with you, or pity you. You are a bad fellow as you are; we shall not help you to become a hypocrite also. Be off."

If religion is to retain much influence on human affairs, the church must return to its ancient ways. Not only must it rebuke immorality, but it must not furnish a sanctuary for criminals. It fell into that error once before, in evil days, and it atoned for it heavily. For, although it is doubtless true that the spectacle of corruption, and of successful and unabashed corruption, in every variety of form, is very debauching, and that the state of things in this city is very likely to demoralize profoundly a very large proportion of the generation which is growing up under it, and which retains no traditions of the earlier and better time, it is also true that the great cause of morality is never left without champions and defenders. The sight of ruffians on the judgment-seat, selling justice with ribald jokes; of ruffians in the legislature, selling laws; of ruffians stealing millions of poor men's money every year, and spending it in "toys and lust and wine"; of great bankers and merchants conniving at their theft, and smiling on them, as they gorge themselves; of church members taking their wages to do their bidding and further their schemes—may well be believed to be playing terrible havoc with the manners of the millions of young men and women who, standing on the edge of the arena, are asking themselves the tremendous question, What weapons are lawful in this great battle of life? But, then, it must not be forgotten that spectacles of this kind disgust and rouse, if not as many as they seduce, enough both to save society and avenge it. We believe that there are coming forward enough young men, horrified and outraged by these exposures, to make the story of the Ring as strange to the next generation as the story of the *Parc aux Cerfs* is to us in this. It will be a bad thing for religion if they find the thieves and peculators clinging to the horns of the altar, for they will assuredly tear them away, and with much damage and desecration to the holy place. And when that day comes, too, we would advise all Butlerite "divines" and "good Christian men" generally, who support rascally-adventurers for office, if they are in the city, to flee to the country, and if they are in the country, to flee to the city; at all events, to avoid their usual haunts.

#### ENGLAND.—CONSERVATIVE TACTICS.

LONDON, Oct. 13, 1871.

THE various agencies for the information of the world by means of published articles are just now in full operation. The clergy are having a

congress at Nottingham; they yesterday settled to their own entire satisfaction the proper mode of confuting the infidel, who, however, will perhaps have a kick or two left in him still. The Social Science philosophers have been employing themselves at Leeds in even more sweeping reforms. No kind of reform escapes their searching gaze. The *Times* has day after day filled five or six columns with inaugural addresses from the presidents of sections which I can neither read nor criticise, because, like Sam Weller's vision, my knowledge and my patience are limited. The Social Science Association has in fact succumbed to the evil which from the first appeared to threaten it. It has been turned to account by two disagreeable classes of mankind, the bore and—to speak in the Carlylese dialect—the windbag. Gentlemen of the heaviest respectability, stump orators on the look-out for a good method of advertisement, and strong-minded ladies, too glad of a seat in even a mock-parliament, contribute chiefly to swell the flood of oratory. Of course it sounds cynical to ridicule people many of whom are doubtless actuated by the most sincere and amiable desire for the good of their fellow-creatures. Yet there are times when flesh and blood revolt against the dreariness and the pomposity and the emptiness of such gatherings. It may be urged with undeniable force that a bore may be a good man, and is very often an extremely useful one; but after endeavoring to reconcile myself to the association by that and similar reflections, I must confess that it seems to me to have been hitherto of remarkably little use—unless it is useful to flatter the vanity of a few second-rate politicians.

Meanwhile, another association, intended for more practical purposes, has just been announced. The composition of this body is remarkable in the extreme. One branch of it consists of Lord Salisbury, Lord Carnarvon, Sir J. Pakington, Mr. Gathorne Hardy, and several other ex-ministers of the same persuasion, that is to say, of the strictest sect of Conservatives. The other branch is formed by several of the men who have recently made themselves most prominent in defence of trades-unions and the rights of labor. You may perhaps remember the names of Mr. Applegarth and Mr. G. Potter, and, if so, you will wonder, as the British public is wondering, what has brought together so strange an alliance. It would seem that the two opposite extremes of political party are being brought into contact. The bitterest aristocrat in England is Lord Salisbury; his new companions are amongst the most violent democrats; on what terms and for what purposes can they join? The answer is supplied partly by seven resolutions which they have passed: affirming, first, the importance of removing the poor man's home from the back lanes of a city to country air; secondly, the need of an improved organization of local boards, with a view to carrying out the above object; thirdly, the desirability of limiting a day's labor to eight hours; fourthly, fifthly, and sixthly, the importance of providing good schools of a superior grade, "places of public recreation, knowledge, and refinement," and markets for the sale of goods in small quantities at wholesale prices; and seventhly, the desirability of providing "a great extension of the organization of the public service, on the model of the Post-office, for the common good." It is not a little puzzling at first sight to understand the true bearing of this remarkable announcement. No one will deny that it is highly desirable to improve the condition of the English poor, to give him better lodging, purer air, shorter labor, more education, and greater means of refined enjoyment. Neither will any one deny that it would be an excellent thing for the English aristocracy to employ itself in a really vigorous effort to confer some of these blessings upon its poorer fellow-countrymen. But it is rather difficult to understand the nature of the machinery brought into play for the purpose. The composition of the board gives it the appearance of being a political trick.

Why should no Liberal peers have been asked to join a movement which is avowedly to be free from political purposes? Radicals will naturally suspect that the scheme is a mere manoeuvre intended to take the wind out of the present ministry's sails. The Conservative nobles, it will be thought, are trying to bid against Mr. Gladstone by offering to carry out social reforms in which they are to have the lead, whilst diverting attention from political changes. However this may be, it is at least highly improbable that an association resting on such a singular basis can be successfully worked; and, indeed, the language of its promoters has a rather impractical sound. Meanwhile, I will simply remark that whatever becomes of the new project, it is significant enough that men like Lord Salisbury and Mr. Gathorne Hardy should have put their names to propositions so strongly tainted by communism. What is meant by the "extension of the organization of the public service on the model of the

\* Lord Salisbury has since denied all knowledge of the movement.



Post-office" is more than I am able to understand; but in a general way its leading ideas seem to be that Government is to undertake to make everybody rich and happy, and give most people places; and that on that condition it is tacitly understood that the Government is to be the aristocracy. Leave us our places in the legislature, say Lord Salisbury and his friends to the artisans, and we will do our best to satisfy all your social demands. The plan as now put forward is obviously very crude; and I should have presumed—were it not published on apparently official authority—that there must be some misconceptions in the statement. But in one way or other it indicates an intimation on the part of the aristocracy to say, Don't abolish the House of Lords, and we will back labor against capital.

However ill-considered the present scheme may be, it is in other respects not an unfavorable symptom. Radicals have begun to discuss the propriety of abolishing the House of Lords. Mr. Fawcett has an article in this number of the *Fortnightly*, setting forth the terms on which a second chamber may be permitted to exist; and more than one member of Parliament has discussed the matter in recent addresses to constituents. I doubt whether people at present care enough about the matter one way or the other to allow an agitation to be sustained. If the Lords ventured to oppose any strong current of popular feeling they might get into difficulties, but neither the Ballot Bill nor the Army Bill was really supported by any popular enthusiasm. Popular interest is more and more drifting away from political to social questions; the relations of capital to labor are felt to be of much greater importance than the precise constitution of our Legislature. If it were possible for the House of Lords really to put itself at the head of any great movement for social reform, political objections to the principle of hereditary legislation would be easily overlooked. Probably any such vision is chimerical; but it is as well that the need of entertaining social questions should be recognized in any way by our statesmen, for good or for evil. They will have to face serious difficulties. If any of your readers would like to see the state of mind of the English working-classes painted in the blackest colors, but by a man of ability and knowledge of his subject, they may turn to an article in *Fraser* for October, by Mr. Wright, who calls himself "the working engineer." The misery of large classes in our great towns, their growing discontent with the institutions of the country, and their despair of any improvement at home, and their consequent tendency to look to America and Australia as the only places of refuge, are set forth with considerable force. That such evils exist and that a dangerous degree of discontent is being generated, is, of course, undeniable; the spirit of the International is spread too widely to be pleasant. To what extent, however, this description is true in general may be a matter of doubt; and better symptoms are not wanting. I do not think much, to say the truth, of the coquetry between Lord Salisbury and Mr. Applegarth, the typical English peer and the typical artisan, for such unions are generally of brief duration. But I think it would be hard to deny that in many ways the feeling between the two classes of which these are specimens has been distinctly improved.

It has been very remarkable, to any one who looks back for a few years, to observe the progress of the recent strike at Newcastle. The workmen have on the whole triumphed; though the conclusion ultimately reached was called a compromise. They have established the direct reduction of the hours of labor. The curious thing, however, was the skill with which they fought the battle and the remarkable extent to which they were backed by public opinion. There were none of the old appeals to the "inexorable laws of political economy," or the condescending assurances to the workmen that they were cutting their own throats. Indeed, I should be induced to say that political economy was treated rather too superciliously, even by those who professed to believe in its teaching. But the workmen, as represented by a Mr. Burnett, the chairman of their league, succeeded in convincing people that they were sincere in desiring a reduction of time rather than an increase of wages; and in the controversy which was carried on between the combatants in the *Times*, they had, to a remarkable degree, the advantage in style as well as in argument. It was clear that they had very able leaders, and that the old plan of treating them *de haut en bas* was singularly misplaced. They knew, in short, how to get the public ear, as well as to carry their point. This, I think, is a remarkable fact, and, amongst other reasons for this, whatever revolutions may be taking place in this country and whatever reforms may be imperatively needed, it seems to be pretty clear that the working-classes, as trained by trades-unions, are rapidly becoming a power which will be able to make its demands heard effectually in Parliament. Violent revolution is improbable, because under such circumstances it is

unnecessary. If, then, the artisans thoroughly make up their minds to carry a political change, it will be carried. It would be well if we were sure that it would be a wise change, and that the same common sense which has been shown at Newcastle would be exhibited in other fields of action. But I must not be drawn into further speculation.

It seems desirable to say, however briefly, that the news of the burning of Chicago has just reached us. Every effort will, I am sure, be made to give a fitting practical expression to the sympathy which is everywhere felt. I will not repeat to you the commonplaces which fill the papers as to the sensation produced in various English towns; but I may say briefly that I hope and believe that this terrible disaster will at least contribute incidentally to illustrate the good feeling which is springing up in this country towards the United States.

## Notes.

MESSRS. J. E. TILTON & CO., Boston, announce new editions of Hood's "Tynney Hall," Goldsmith's "Deserted Village," and Tennyson's Poems; the "Dessert Book," and "How to Make Confectionary."—Mr. Amasa Walker's "Science of Wealth" will be republished, in a condensed form, by J. B. Lippincott & Co., who also have in preparation "Seven Decades of the United States," by Governor Henry A. Wise, and "Legends and Lyrics," by Paul Hayne. The same publishers state that they have purchased, "at a large price," the advance sheets of the promised "Life of Charles Dickens," by John Forster.—Messrs. Rivington, London, have announced for publication, in October, the following among other theological works: "A Short Treatise on the Holy Catholic Church: Its Divine Ideal, Ministry, and Institutions," by Edward Meyrick Goulburn, D.D., and, by the same author, "The Gospel of the Childhood" (Luke ii. 41 to the end); "A Key to the Knowledge of Church History (Modern)," by John Henry Blunt, M.A.; also, edited by the same, "Dictionaries of Sects, Heresies, and Schools of Thought," by various writers; "Elements of Religion," lectures by Canon Liddon; Neale's "History of the Holy Eastern Church," edited, with a History of the Patriarchs of Constantinople, and an introduction, by the Rev. George Williams; "Fables respecting the Popes of the Middle Ages," from the German of Döllinger; "Physical Facts and Scripture Record; or, Eighteen Propositions for Geologists," by Rev. W. B. Galloway; and these three works, already named by us in previous summaries: Rev. Orby Shipley's "Glossary of Ecclesiastical Terms"; Dr. John Steiner's "Theory of Harmony"; and Miss Maria Francesca Rossetti's "A Shadow of Dante: being an Essay towards Studying Himself, his World, and his Pilgrimage," with illustrations.—Messrs. Claxton, Remsen & Haffelfinger have in press "Homo vs. Darwin"; "The Organization of Labor in accordance with Custom and the Laws of the Decalogue," by M. F. Le Play; "Living Female Writers of the South"; and a number of novels and juvenile books.—We have so often expressed our opinion of the value of the Jarves collection of paintings by the old masters, and the desirability of its being kept together, that we need only call the attention of our readers to the approaching sale of it at its present place of deposit, the Fine Arts Gallery of Yale College, on Thursday, November 9 (this day week), at ten o'clock A.M.

—Readers of the *North American Review* who take an intelligent interest in the body of speculations and hypotheses known under the comprehensive name of "Darwinism," will remember a remarkable article by Mr. Chauncey Wright, of Cambridge, published in the number for last July, in which, under the form of a review of a recent book by Mr. St. George Mivart, the Darwinian doctrine itself and certain of its developments are explicated, and the general position of the Darwinian forces improved by the pretty complete baffling and defeat of such attacks as Mr. Mivart and his friends and other assailants have for a long time been making upon it. It has not been Mr. Darwin's habit to go into the arena of controversy and defend the views of the Darwinists when assailed—partly, it is possible, for the same reason that made John Wilkes decline to defend the Wilkesites, because, namely, he himself had never been one. Whatever the reason has been, and whether Mr. Darwin is a Darwinist or not, he has been content usually to put his work before the scientific world and such other worlds as found themselves interested in it, and let it stand on its merits, without polemical championship on his part; but he, nevertheless, may have been pleased to find of a sudden so thorough a master of his books and so able an expositor of them as Mr. Wright doing battle for him of his own motion, and doing it with

such effect. This pleasure may reasonably have been the greater because it has not always happened that Mr. Mivart, in combating Darwinian hypotheses, has been at pains—or, at all events, he has not always been successful!—in stating with exactness the position which he was assailing. On the appearance of Mr. Wright's article, then, Mr. Darwin got leave from Messrs. J. R. Osgood & Co. to reprint it in a pamphlet, of which he has struck off a small edition for distribution among men of science interested in the subject. The pamphlet contains a page or two of matter which is not in the article as printed in the *Review*, but the addition, while worth having for itself, cannot be said to have importance as regards the purpose of the argument, and the *Review* article is quite as good as the pamphlet for the use of those who wish to inform themselves of Mr. Wright's views. The essay, we warn intending students of it, will not be found easy reading, though the writer evidently consulted the interests of the unlearned Darwinist in writing it, and in great part it is as clear as needs be, and almost a model of scientific exposition. Other parts of it, however, will be more readily understood at first reading by a scientific man who has spent some time and much thought on Darwinism and kindred subjects than by a wayfaring man. Such are the inherent difficulties of the subject that, unless care is taken in the reading, it is possible to err therein. Mr. Darwin's opinion, that it is the best deliberate or systematic reply that has yet been anywhere made to the opponents of the doctrine of evolution of itself, makes the article attractive.

—On Thursday, Oct. 26, at Lancaster, Ohio, died Thomas Ewing, senior, one of the most venerable and respected statesmen of the old school still remaining among us. He was born in West Virginia, Dec. 28, 1789, so that his life embraced the momentous period in modern history which opened with the French Revolution and closed with the conquest of France by Germany, and which is also co-extensive with the constitutional existence of the United States. In the government of his country, Mr. Ewing played a prominent part, twice as U.S. senator and twice as a member of the Cabinet—singularly enough, in administrations where the Vice-President succeeded upon the death of the President. He was Harrison's Secretary of the Treasury, and withdrew with his colleagues (save Webster) under Tyler; he was Taylor's Secretary of the Interior (the first incumbent), and retired under Fillmore. He was, while in political life, identified with the Whig party, and had anti-slavery leanings, if not strong convictions. His second case as a lawyer, in the town where he has died, was handed over to him by Mr. (afterwards Judge) Sherman, whose son, the present General, Mr. Ewing subsequently adopted, becoming at last also his father-in-law. He followed his own father to Athens Co., Ohio, early in 1798, at a time when Eastern emigrants had just begun to open up the wilderness and to plant there a "university." By his own efforts he acquired an education at this institution, and was its first A.B. Prior to this, as he himself has said, "the excessive use of alcohol was the indirect means of furnishing him with school-teachers," who were scholars, as he explains, "banished, no doubt, for intemperance." The changes which Mr. Ewing saw wrought on the face of this continent are marked by his passage down the Ohio in a flatboat, and the completion, in his lifetime, of the Pacific Railroad. He could, even at the age of eighty, remember well the first beef he tasted, which he thought "coarse and stringy, as compared with venison." He recalled, too, how, as a boy of twelve, reading aloud to his father and his hands, he found attentive listeners to a translation of the *Æneid*, and how

"At that point in the narrative where *Æneas* discloses to Dido his purpose of leaving her, and tells her of the vision of Mercury bearing the mandate of Jove, one of the men sprang to his feet, declared he did not believe a word of that—he had got tired of her, and it was all a made-up story as an excuse to be off, and it was a d—d shame, after what she had done for him. So the reputation of *Æneas* suffered by that day's reading" (p. 399, "History of Athens County").

—We do not know whether, with the literary forces at its command, the new German politico-literary weekly, *Im neuen Reich* ("In the New Empire," simultaneously with the rise of which, January, 1871, it was started), could not be made much more interesting, especially to non-Germans, than it now is; but we do know that it is a very readable and instructive periodical, which we should be glad to find in such American homes as are not unfamiliar with the language and current literature of Germany. *Im neuen Reich* is by its full title, if we understand it aright, limited to things connected with the activity of the German people in politics, literature, and art, but, in reality, it far transcends that sphere, and embraces subjects as foreign to it as the following—to notice only articles

contained in the last ten numbers before us: "What makes Darwin popular?" (treated by Alfred Dove, the editor); the "Origin of the Dead Sea" (by Th. Nöldeke, the celebrated Biblical critic); the "Treaty of Washington" (correspondence from New York); "Shakespeare as an Observer of Insanity" (by M. Bernays); the "History of the Capitoline Museum" (by Justi); "Russia in Asia" (by F. Marthe); "Periclean Structures" (by R. Schöne). The principal topics, however, are such as refer to the past and present of Germany, the development of the new empire claiming, of course, attention above all other topics. Gustav Freytag is one of the leading contributors. The tendency of the journal is liberal, with a slight and not very consistent leaning towards radicalism. Its tone is very moderate, its style clear and elevated, though occasionally tinged by a sentimental optimism, mainly the result of the late great achievements of the Germans; and not a few of the articles betray how far these achievements have not only dazzled the eyes of the German people, but also perverted the sense of justice of many a German liberal. A correspondence on "universal military duty in Alsace-Lorraine" (in No. 30), which advocates the immediate conscription of the French youth in those provinces for service in the next war against their brethren and fatherland, is a shocking instance of patriotic perversion. Mr. L. W. Schmidt, of this city, is an agent of this periodical, which recommends itself by its form and print no less than by its contents.

—An article by Didolff, in the *Historische Zeitschrift*, calls attention to the interesting fact that the year 1870 was the thousand-year "Jubilee" of the territorial unity of Germany. In 870, after the death of Lothaire, Charles the Bald was obliged to agree to a partition treaty (at Mersen) with Louis of Germany, by which the German part of Lotharingia, east of the Meuse, was incorporated with the German kingdom. If for a few years it was somewhat wavering in its allegiance, submitting now to the king of the East-Franks, and now to the king of the West-Franks, yet on the whole this essentially German territory continued a part of the empire until modern times; and the events of last year have restored at last those portions of it which France had got into her possession, and made the political boundary coincide with the line of nationality. Another article, without signature, and therefore, it is probable, by the editor, Von Sybel, himself, discusses the Vatican Council from the point of view, in general, of Dollinger and the anti-infallibilists. After a sketch of the history of the Council and of the dogma of infallibility—in which the striking point is made that this was the first Council in which only ecclesiastics sat, and, since the *theologians* were excluded, only the higher clergy—the writer proceeds to speak of the future. He shows that the treaty which has heretofore existed between church and state assumes the Confession of Trent as its basis. If the church discards this traditional character, and its relation to the state and to other confessions is essentially altered, the contract is virtually broken, and the other party is freed from all its obligations. It is for Germany to say, then, whether the primacy of Rome is any longer to be acknowledged. Here comes in another historical anniversary. The year 70 severed the connection of the Christian church and the Jewish synagogue; the year 1870—witnessing the destruction of old Catholicism at the hands of the Pope himself, and of the temporal power at the hands of Victor Emanuel—opens the way to a new and free organization. "Andere reissen nieder"; he closes, "Du, Deutschland, baue auf!"

—Just at present, there seems to be no great activity in Paris among the publishers of books relating to the fine arts. Mr. Christern has received the parts that have been issued of the "Archives of the Commission on the Historic Monuments of France," published by order of his late Excellency, M. Achille Fould, Minister of State. For the present, this publication is suspended. It consists of folio plates, with a letter-press illustrating the restorations of the churches, palaces, and public buildings of France, undertaken and carried on by the late government, with the assistance of the ablest architects. The work of restoration in which Napoleon III. was so much interested, and on which he spent so much money, was one of the chief elements in the bread-and-circus policy with which he kept his people quiet so long. It appealed to the educated, art-loving worshippers of the past with which France abounds, and it was always splendidly, often tastefully, though, it must be confessed, sometimes barbarously carried out, as in the case of the château of St. Germain. Other publications, relating to the fine arts, received lately by Mr. Christern, are "Instrumenta Ecclesiastica: Choice Objects of Religious Art, belonging to the Middle Age and to the Renaissance, exhibited at Malines in September, 1864." The objects in this work, which does not bear the imprint of any publisher, are all photographed, and though the mechani-



cal part of the work is not done in the most satisfactory manner, the objects photographed are very interesting to the lover of such things, and to the man instructed in them. Such a book will form a valuable additional atlas of plates to Viollet-le-Duc's encyclopædia of architecture or to his book on furniture. "Studies for Funeral Monuments suited to Modern Times," by J. Boussard (Paris: Baudry), is a pretending atlas of designs, very few of which we find pleasing, though we confess to a taste in such matters that is far from catholic. We confess, too, to thinking that the French taste, in the matter of monuments to the dead, is the worst in the world, its only rival in affectation and in ostentation being the American. Among French designers, M. Boussard is not the worst we could name, and, if this should be thought damnably faint praise, it is the best that, in our judgment, he deserves.

#### REVISION OF THE UNITED STATES STATUTES.\*

In the year 1866, Congress authorized the President "to appoint three persons as commissioners to revise, simplify, arrange, and consolidate all statutes of the United States, general and permanent in their nature, which shall be in force at the time such commissioners may make the final report of their doings." The law establishing this commission provides for a systematic arrangement of matter, for the omission of redundant or obsolete enactments, and for the "making such alterations as may be necessary to reconcile the contradictions, supply the omissions, and amend the imperfections of the original text"; but it does not contemplate any substantial change in the provisions of the statutes themselves, similar to that made by the revisers in New York. The work of the commissioners is, therefore, not creative; it consists chiefly in devising and executing a plan of classification, by which all the existing and permanent statutory matter shall be brought together, condensed, and arranged. The Board, which now consists of Mr. Victor M. Barringer, Mr. Benjamin Vaughn Abbot, and Mr. Charles James, has made public the results of its labors as far as reached. It is proposed that the revised statutes of the United States shall be divided into five parts. Part first will contain the revision already described, and will be separated into seventy-six titles. Part second will simply be a list of acts repealed. It is conceded that these two portions will exhaust the authority given by Congress. The commissioners will prepare, however, a third part, which will comprise all such public acts as cannot be included in the revision, and which will be republished without alteration, merely for purposes of convenience; a fourth part, relating exclusively to the District of Columbia; and a fifth part containing treaties. Of the seventy-six titles into which the revision proper is to be divided, they have already drafted, printed, and distributed for examination Title I., "General Provisions," containing three chapters; Title II., "The Legislative Power," containing nine chapters; Title III., "The Executive Power," containing two chapters; Title LXXIII., "Of Crimes," containing nine chapters; and titles relating to the slave-trade, to the flag and seal, to the militia, to the seat of government, and to arms, armories, and arsenals. Messrs. Barringer and Abbot, without the concurrence of the third commissioner as it appears, have addressed a circular letter to the committees of Congress having the matter in charge, reporting with great minuteness the methods pursued by the commission, with the present results, and urging that Congress take speedy or immediate action upon the revision as far as completed.

We fully recognize the importance, and even necessity, of such a revision as the statute contemplates; we go further, and desire that this commission should be clothed with authority to propose some radical changes in the body of the law itself. We cannot, however, agree with the Messrs. Barringer and Abbot in the suggestion which they make; and we hope that Congress will postpone all final action in the matter until the system which the commissioners adopt has been completed by them, and has been subjected to the close and discriminating scrutiny of professional and business men throughout the country. We purpose to offer some reasons in support of this position, and these will necessarily involve a partial discussion and criticism of the plan recommended by the Board and of the work already done by them.

Congress, through the means of this commission, is about to legislate for a long future. The system accepted by them will for a considerable period of time be fixed. We cannot anticipate any substantial changes in it when once it has passed into the condition of positive law. For better or for worse, it will give form and character to the permanent jurispru-

dence of the nation. It will be the nucleus about which further additions will be grouped, the foundation upon which the subsequent structure will be built. These facts show that if a revision is important, and even necessary, it is no less important and necessary that the revision should be as perfect in its outlines and general principles as knowledge, experience, and care can make it. As we have already remarked, the principal duty of the commissioners is to devise and execute a system of classification. Simple and easy as this task may seem to some, it is in the highest degree difficult. The very fragmentary nature of the national legislation increases this difficulty. We do not hesitate to say that, with all the aids to be derived from the experience of other countries and from the labors of jurists, it would be easier for the commission to frame a complete code of jurisprudence upon a basis at once scientific and practical, than to frame a satisfactory revision of the United States statutes. The commissioners plainly appreciate the difficulty. They tell us, in their notes to the first title, that five systems of classification have been suggested: the chronological method, an alphabetical arrangement, an arrangement based upon the order of clauses in the Constitution, the logical or philosophic method, and the practical or manual method, which, they say, deserves consideration. This last "would consist in a collocation of acts guided by the convenience of those who are chiefly concerned in using them; thus placing, as far as possible, statutes guiding the action of courts and judicial officers in one division, statutes affecting those concerned with the collection of the revenue in another, and so with other topics." Among these different plans we are told that "the decision reached has been to employ the logical method as governing the general arrangement of the work; modifying it freely in all questions of detail by the considerations of the practical convenience of those who are to use the statutes." The result which the commissioners must aim at is to make the particular enactments of the revised statutes easily accessible to business men, to lawyers, to courts, and to legislators.

We learn from the preliminary remarks to one of the titles that, "in classifying the various provisions of the statutes for revision, the commissioners have followed the unvarying rule that no provision may be repeated; none may be inserted twice under different titles." How shall that provision be placed in order that its position may be natural or necessary, and that it may be turned to almost as a matter of course, with a reasonable certainty of finding it? This is the problem which the gentlemen must solve. From the antecedents of some of the commission, and from the titles themselves which have been published, we are afraid that too much reliance will be placed upon what has been described as the "practical" method of arrangement. The fault of this method is that it is based upon and follows no conceivable system. If it was possible to ascertain the practice of all the persons who shall have occasion to use the statutes, and if there were any uniformity in this practice, then we should have a basis of common convenience. But it is impossible to ascertain any such practice, nor would there be any uniformity in it when discovered. In fact, the gentlemen of the commission have no standard of personal convenience upon which to proceed except their own. If the revision is arranged upon the basis of "practical convenience," as described by the commissioners, it will represent simply the habits of Mr. Barringer, of Mr. Abbot, and of Mr. James, and perhaps of no one else. In the portions already drafted, the commissioners have yielded too much, we fear, to the notion that such or such a man would look for a particular provision under a certain head; and the result is a lack of system, and an absolute antagonism of principles in the arrangement of some important titles. One example will illustrate our meaning. Title III. is concerning the "Executive Power." It contains two chapters; one on "Presidential elections," and one on "the powers and compensation of the President." By the "practical method," as before described, we should expect to find in the latter chapter a complete enumeration of the powers which the chief magistrate may wield. In the text, however, the only powers mentioned are to appoint an official household, to remit part of a double punishment, to treat with a State for the acquisition of land for public buildings, and to control or dispose of land conveyed to persons for the use of the United States. This is certainly a meagre show. Turning to the preliminary remarks, we learn that "the powers of the President, and the mode in which it is his duty to act with reference to given subjects, are placed under the titles comprising the subject-matter of his official action"; that is, are scattered through the whole revision. Assuming this to be correct, all of the four topics just enumerated, except the first, should be taken from the chapter in which they are found, and distributed under other titles. But is the same principle

\* "Revision of the United States Statutes, as drafted by the Commissioners appointed for that purpose." Sundry Titles. Washington. 1871.

carried out in treating of other subjects? In the list of seventy-six titles we find one called "The Judiciary," and no other one having the slightest reference to the practice and proceedings in courts. The preliminary remarks to the title "Crimes" inform us that "what commonly passes under the name of 'Criminal Procedure' will not be found in the present draft of this title. The place of trial, and the manner of trial, and the like particulars, have been allotted to the title on the 'Judiciary,' which is in the course of preparation." The same is evidently true of civil procedure. Everything, therefore, pertaining to a civil action or remedy, or to a criminal prosecution, is to be found in the "Judiciary." We are confident, in the first place, that no lawyer would ever think of looking for these particular subjects under that head, and, in the second place, that the commissioners have abandoned the principle which they professed to take for their guide in preparing the title upon the executive. We urge upon them that one system must be pursued throughout the entire revision. Better a faulty method than no method at all; better any principle than the abnegation of principle. The "practical convenience" scheme will produce universal inconvenience.

Our space will not permit an examination of each title that has been completed; we shall, therefore, confine our further discussion to the one on "Crimes," because it was first published, and is surpassed by none in importance. The commissioners say that as the legislative power of Congress is of special and limited jurisdiction, the system of classifying crimes which has been usually adopted in general codes and by judicial writers is practically impossible. "It has been deemed best to attempt a scheme of arrangement founded rather upon the grants of legislative power contained in the Constitution, as near as may be, or upon the considerations which, under the general operations of the fundamental law, have led Congress to denounce and punish particular offences." They have, therefore, separated the title into nine chapters, of which the following are the heads indicating the matters contained in each: General provisions; crimes against the existence of the Government; crimes arising within the maritime and territorial jurisdiction of the Government; crimes against justice; crimes against the operations of the Government, including forgeries and frauds, counterfeiting coin, postal crimes, etc.; official misconduct; crimes against the elective franchise and the rights of citizens; punishment of accessories; concerning discipline and treatment of prisoners. It is due to the commissioners to say that this scheme is not satisfactory to themselves. To this whole plan of classification there are many and grave objections, and we are confident that it should be abandoned. The facts which have been chosen as the basis of the arrangement have no connection with the nature of the crime; they are mere jurisdictional facts, and do not in the least indicate *what the crime is*. We might as well, in framing a penal code, divide crimes into those over which a court of sessions has jurisdiction, and those over which a court of oyer and terminer has jurisdiction. Again, the system proposed by the commissioners makes it necessary that provisions defining crimes of exactly the same name, nature, and grade should be repeated. Thus, we might have murder or robbery on the high seas, or within districts under the exclusive jurisdiction of the United States, and murder and robbery in resisting the operations of the Government. The title, as completed, contains several instances of this reduplication, and Congress will be constantly increasing their number. But, in fact, the difficulty in the way of a comprehensive classification, according to subject-matter, does not exist. The title should be framed with a view to what Congress *may* do, what powers it possesses under the Constitution, not with a view merely to what *it has* done. Congress possesses ample powers of criminal legislation, but has not, as yet, exercised all of them; that it will in future exert them more freely, and legislate over a wider range of subjects, the experience of the last few years makes certain. Within the maritime and admiralty jurisdiction, certainly if without the jurisdiction of any particular State, and within districts and territories under its exclusive control, it may denounce and provide for the punishment of every species of offence. Here, then, is ample opportunity for the outline of a complete system of classification. Again, by virtue of its powers to enact laws on a large variety of subjects, and to provide for the enforcement of these laws and for the punishment of resistance to their enforcement—in other words, within the sphere of resistance to the operations of the Government—it may certainly define and provide for the punishment of all crimes of violence against the person, from homicides down to assaults and batteries, excepting a few which can by no possibility have any connection with the administration of the laws, such, for example, as rape. Again, because the United States is the owner or custodian of property, and because, by

means of its system of national banks, a vast amount of private property is brought under its jurisdiction, almost all crimes against property fall within the scope of Congressional legislation. We have thus suggested enough to show that a comprehensive and orderly system of classification of penal offences is possible, and, if possible, then necessary. The basis of such a system must primarily be the essential nature of the delict itself. This being determined upon, all the accidental facts could easily be provided for. Thus, murder should be once defined, and then the places where or the circumstances under which murder may be committed, so as to be justiciable in the national courts, should be stated. The same method should be followed with other crimes.

In looking through the substance of this title, we find a few matters which we cannot pass by without comment. The second chapter relates, of course, to treason, misprision of treason, sedition, and the like. The only provision concerning treason is a section declaring its punishment. The commissioners say, in a note, "The Act of 30th April, 1790, is omitted as redundant. That statute is a mere re-enactment of Article III., Section 3, of the Constitution." If, therefore, this title should be adopted as it stands, there would be no statute defining what treason is and who may commit it. The Act of 1790 omitted by the commissioners was passed at the very first session of Congress, and provides that, "if any person or persons owing allegiance to the United States shall levy war, etc., such person or persons shall be adjudged guilty of treason." If this clause is finally rejected, could there be any conviction of treason, and would the crime itself exist? We doubt it. We cannot conceive that an indictment could be based upon the constitutional provision itself. That provision is not so much a grant of power as a restriction. "Treason against the United States shall consist only in levying war against them," etc. The meaning is clearly the same as though the section read, "Nothing shall be treason except levying war," etc. The language is negative, not affirmative. The general grant of judicial power in the first and second sections of Article III. is far more positive in its terms; and yet it is settled that, without a statute giving effect to this grant, the courts could do nothing. But even if the Constitution does in terms create the offence, it does not declare who may be guilty of it. Here the statute comes in, and, in accordance with the common-law doctrine, says that the offence can only be committed by persons owing allegiance to the United States, which allegiance may undoubtedly be that of a citizen or the temporary duty of a denizen. We can conceive of no reason for dropping the old Act as redundant. Even if there only existed the vaguest doubt, that doubt should be removed by re-enacting the statute of 1790.

Passing to other provisions of the title, we find a very general absence of definitions and descriptions of crimes. Thus: "Every person who [within the territorial jurisdiction or on the high seas] commits the crime of murder . . . shall suffer death." We know that all these sections are taken from old statutes. The commissioners have not been directly authorized to make substantial modifications and improvements. This leads us back to a point mentioned at the commencement of our review. We hope the power given to the board will be enlarged. These statutes merely mentioning the crime "murder," and the like, require the courts to apply the old common-law definitions. The penal laws of nearly all the States have long ago been reformed; they have become the expressions of higher principles than those which animated the Draconian code of the ancient common law. It is disgraceful to the nation that its penal legislation, alone among the enlightened states of Christendom, still reflects the temper and ideas of a barbarous age.

We must add, in conclusion, that what we have said has been in no captious and fault-finding spirit. We know somewhat of the difficulties which the commissioners have to encounter; we appreciate the magnitude and importance of their work; we can plainly see how thorough and conscientious have been their labors. They have asked for criticism, and we have responded candidly, certain that, if there be any merit in our suggestions, the board will give them their due weight.

#### THE NORTH AMERICAN REVIEW FOR OCTOBER.

THE opening paper of the October *North American* is by Professor J. D. Whitney, and is entitled "Volcanism and Mountain Building." Scientific men will not need our commendation of it, but we may properly bespeak for it the attention of general readers. Such readers will find in it a spirited presentation of a great mass of facts gathered together by a geologist whose extensive experience, in fields affording most excellent examples of the phenomena he discusses, give him a weighty claim to be listened to as having authority. The article abounds in suggestions



concerning the physics of the exterior of the globe which will make it of great value to the student, while the vigor of the criticism which it applies to some of the most considerable contributions made to orographic geology, cannot but provoke among the magnates of the science a discussion which may or may not be warm, but which can hardly be otherwise than profitable. Incidentally, Professor Whitney attacks the modern theories of the metamorphic origin of granite rocks; but his principal object appears to be first to call attention to Richthafen's theory of volcanic activity, and, secondly, to demolish all existing theories of mountain building, especially those put forth by Messrs. H. D. Rogers and James Hall. Doubtless this article, and two that have preceded it in the *Review*, sooner or later, will be obtainable in book-form.

Much as may be everywhere read on the subject, by far the best essay that we have anywhere seen in the controversy between the friends of "modern science" as a means of education, and the friends of "classical training," is Professor W. D. Whitney's essay, entitled "Language and Education." It is an essay for which the writer will, we think, receive the thanks of almost every one who has tried to bring the discussion to a conclusion satisfying to his own mind. Professor Whitney sets out by saying that we, in this country, cannot wish too heartily and cannot work too earnestly for the success of all efforts towards improving the lower grades of education: "We have undertaken to let our government and the constitution of our society represent the average of virtue and intelligence in the whole community. We cannot now abandon the plan if we would, and we ought not to flinch from it if we could; but it is an undertaking fraught with danger; we shall tear one another in pieces if we do not succeed in restraining and transmuting, by educational influences, the aggressive selfishness of individuals and communities, of wider but limited classes, and of aristocracies. Men will strive after what seems to them happiness; and to raise the ideal of happiness, to make men really love better things, is the object at which we are directly to aim, if we would benefit and save our country." But, he continues, the progress of the lower education depends in no small degree on that of the higher, so he proceeds to examine briefly the condition of university education in America, and, of course, is obliged to offer for the consideration of educators his views as to the lively if not violent contest going on here and in England between classical and scientific studies; and, ranging himself on the side of linguistics—which has certainly been put upon its defence by many extremists of one sort, as it has certainly been put in needless jeopardy by pedants of another sort—he devotes his essay to taking "such a view of education on the one hand, and of language on the other, as to show us what is the relation of the latter to the former, and what the place of linguistic and philological study in the general scheme of human training." He is, however, not in the least polemical, in the bad sense of the word; and of the two classes of disputants who might be profited by what he has to say, if they would carefully peruse it, we do not know that those persons who make the old-fashioned "disciplinary" claim for the classics will not find themselves more specifically rebuked than those friends of the sciences who regard Professor Whitney as "a consumer and not a producer," and those others who, with Professor Huxley, are inclined to think that poetry is, for the most part, "sensual caterwauling." "The essence of discipline is simply preparative," he says; "that is a disciplinary study which duly leads the way to something that is to come after"; and he sums up under this head by saying: "No discipline without valuable knowledge; all valuable knowledge available for discipline; the discipline in proportion to the amount and value of the knowledge acquired: these are fundamental truths in the theory of education."

We have not space to quote from the more interesting parts of the essay in which Mr. Whitney deals with that particular phase of his topic as to which he is qualified by his own special training to speak. We would gladly do so, for we fear the *Review* will be seen by too few of the readers whom it would most benefit to become acquainted with Mr. Whitney's thoughts on this important subject, and we are sure we should be doing good service in assisting to disseminate them as widely as possible. Still, ideas of this degree of value, though it may be impossible to pour them in directly where they seem most needed, are yet sure to be infiltrated sooner or later, and that, no doubt, is the best mode of imparting them to the public mind. We may remark that the essay gains on a second and third perusal, and that it will be found to repay close and heedful study.

"The Misgovernment of New York" is an article in which Mr. Charles Nordhoff seeks to find a remedy for the evils under which this commu-

nity is laboring. In fact, he suggests a remedy, which in substance is this: The people of the city of New York are fit for self-government, and should be entrusted with the management of their own affairs, instead of being, as now, to a very great extent, under the control of officers and boards of officers whom the Legislature at Albany has made independent of the citizens. Let the people elect a mayor who shall hold office during but a short term, who shall appoint all his subordinates, and who shall be directly responsible to the citizens both for himself and for the men he appoints. The city judiciary also the mayor shall appoint, the judges holding office for life, unless removed for cause. As for the legislative department of the municipal government, it should consist, Mr. Nordhoff thinks, of a common council composed of councilmen elected not on what is called a "general ticket," and by the voters at large throughout the city, but on a district ticket, by the voters of the district in which each individually dwells. Obviously, Mr. Nordhoff's scheme of applying to New York the form of government which has been found satisfactory when applied to the whole Union has its good points, and no one will doubt that if it were put into a charter and tried in this city, it would, for a certain length of time—be the same shorter or longer—work better than some other forms of government that have been tried here within the twenty years last past.

It is hardly worth mentioning, but it is odd to find the writer of an essay such as this we have just been glancing at stopping all at once to put into his enumeration of the blessings a responsible mayor would bring in his train this boon—that he might even by-and-by be goaded into abolishing the absurdity of ringing the bells when a fire is discovered, the telegraphic alarm having already informed the firemen, who alone can usefully appear at a fire. There is something of an absurdity in it, no doubt; if absurdity is precisely the term for a practice which, as Mr. Nordhoff points out, signals thieves and pickpockets to favorable fields. But we should say that it would have occurred to but few writers, curious in their art, to enumerate this particular evil among those which are to be destroyed when once we have secured local autonomy and our rights as freemen.

"French and German Diplomacy after Sadowa" is a clear, intelligible, and, as we judge, correct and true account of the diplomatic contest—to call it so—between Napoleon and Bismarck, from the time just preceding the war of 1866 to that just preceding the war of 1870. It is by a writer unknown to most of our readers, Professor C. K. Adams, who fills a chair of history in the University of Michigan. His article deserves the praise—not too commonly deserved by this sort of articles—of being to all appearance not only well informed, but also candid and unbiassed. The "quidnunc" of a hundred years ago, who knew "What the Swede intends and what the Turk," and the secret article in the Spanish treaty, is nowadays pretty thoroughly gone out of literature, except, indeed, as a despatcher of telegrams; but it is still certainly not rare to find in literature of more pretensions than newspaper literature the self-blinded partisan who, whether or not he is full of misinformation or information as to political facts, is as good as an insane man or a seventh son of a seventh son when he comes to moralize events and prophesy results. Unusually large the crop of such prophets and philosophers has been during the past two or three years, and it is agreeable to come upon a writer who, without taking occasion to say anything very profound, treats sensibly of the matter. The *North American's* critical notices, by the way, include one which handles cleverly and amusingly a fair specimen of the wild kind of political writing to which we refer. It is the one which appears in the table of contents as "The Fall of England," and which reviews the "Dorking" literature.

"The Regeneration of Italy" is an essay by Mr. E. Gryzanowski, a gentleman who has been for years a philosophical student of European politics in the narrower as well as in the wider sense, and who, so far as we know, has never written anything that is not exceptionally worthy the attention of those who are interested in the topics which interest him. He has, too, an exceptional gift of attracting and holding attention, for there are not many foreigners—or Englishmen or Americans either, for that matter—who use our language with more at once of precision and force than he, and not very many writers for the periodical press whose opinions and reflections better deserve to be well presented. The opinions are, to be sure, sometimes a little pronounced, we think, and put forth with too little limitation, and the reflections do not in absolutely every instance strike the reader as perfectly sound, though they are almost sure to be, at all events, interesting. It is, for example, not what would be called very profitable speculating to ponder the question why the isl-

and of Sardinia makes no great figure in history; not a very valuable conclusion to conclude that the island has no history because it has never had a sovereign of its own, and is at some distance from the mainland. It would seem as if a question to which that is the answer were hardly worth asking. It is many generations since navigation brought Sardinia near the mainland, and kings were never scarce where subjects were of a desirable kind, and numerous enough.

Perhaps a more favorable illustration of Mr. Gryzanowski's tendency to philosophizing is afforded by this passage, though we confess to a fear that in quoting it we may somewhat discredit our praises of a moment since. That it completely explains the fact, if it be a fact, that the lettered Italian is a passionless being when compared with his unlettered compatriot, is something to which we have not committed ourselves. Still, as we have said, it is, at all events, interesting, and no one will mind saying that it has a great deal of truth in it: "It may not be generally known, but it is true beyond question, that the natural rapidity of human thought and emotion is enormously retarded, first by the habit of articulate speech, later by the power and habit of reading and writing. Deaf and dumb persons [deaf-mutes] are generally quick, passionate, and vindictive. With them, sight, resentment, and action follow each other with such rapidity that bystanders sometimes fail to discover their logical connection. And people who cannot read or write have this in common with the deaf and dumb, that their speech is not strictly articulate. They do not think in sentences, but in ejaculations, and they get through a long string of successive emotions with a rapidity unknown to those who cannot help distinguishing between nouns and verbs. The changes wrought by elementary education in the Italian savage are, indeed, surprising. The writing Italian not only loses the remarkable retentiveness of his memory, which is, of course, a great loss, but he also loses his quickness of resentment and of action, which is a gain and a blessing to him. The educated classes in Italy are altogether sedate, and seemingly passionless," etc., etc. Perhaps, however, now that the reading and writing Italian has a country, and something to do besides archaeology and the emendating of Petrarca, and other sedentary pursuits, he may become more violent. Mr. Gryzanowski's readers may, by the way, find it well, after reading what we have quoted from him in regard to the power of self-restraint which is gained by learning to use articulate speech, to compare the passage with what Professor Whitney has to say concerning the influence exerted on the individual and on the race by the learning of a language.

There are six critical notices this month, and they compare favorably, for weight and learning, with the rest of the number, which, taken altogether, is a very good one, with nothing bad in it, and much that is very good, and having, indeed, no fault except the good-sized fault, that it is deficient, almost to destitution, in purely literary matter, and that, for a "Review," it notices not many books. Those which it does notice, however, it treats with all the customary care. They are these: Delbruck's "Uses of the Conjunctive and Optative in Sanskrit and Greek"; Dr. J. F. Clarke's "Ten Great Religions of the World"; the sixth edition of Professor Max Müller's "Lectures on the Science of Language"; the second and third volumes of Greene's "Life of Major-General Nathaniel Greene"; Professor A. C. Fraser's edition of "Berkeley's Works"; and the "Battle of Dorking"—to the remarks upon which we have already referred. The initials "C. S. P." are appended to the review of Berkeley, and, doubtless, they stand for Mr. Charles S. Peirce, who, it is probable, has of all men paid most attention to the subject which he handles in this essay. It is much more than a mere notice of Mr. Fraser's volumes, and we must reserve till next week what we have to say about it.

Of the other book reviews, the most noticeable is that in which Professor Max Müller is put in anything but an agreeable position. It would seem sometimes as if, in England also as well as in the United States, the constant attitude of condescension which is imposed upon the *savant* in his intercourse with his inerudite neighbors is apt to induce in him a frame of mind which is hostile to a graceful humility, not to say injurious to sound habits of thinking and writing. Over here we see plenty of it, and have seen more than one distinguished person's usefulness impaired by a long course of arrogance and of pity for us. And there have been signs before now that something of much the same kind was happening in England.

#### THE MAGAZINES FOR NOVEMBER.

THE November *Galaxy* has several articles that are worth reading, and one that is a contribution to history. It is the beginning of an account, by Ex-Secretary Welles, of the measures taken by the Navy De-

partment for the capture of New Orleans, and it has very much of the satisfactory quality that belongs to writing done not for its own sake but because the writer is in possession of facts which it is important should be known. Its business-like character makes it good reading, and, apart from any such pleasure that it gives, the reader finds himself thinking better of the navy and of the Ex-Secretary than was common when, nine or ten years ago, we all in our haste were denouncing the navy for inefficiency, cursing the *Alabama*, and stigmatizing Mr. Welles as the "old man of the sea," forgetting that he was a Secretary without a navy, necessarily ignorant as to the loyalty of very many of the officers in service, and burdened with the almost overburdening task of setting on foot naval workshops and stores for the preparation of all kinds of supplies. It will be surprising if it does not turn out that public opinion concerning him is not to undergo thorough revision, as already it has no doubt been in part revised. Comparatively impassive as Mr. Welles seemed during the war, and free from anxiety as to his popularity at all events, not to say his reputation, he now shows an honorable solicitude to stand justified in the second thought of his countrymen and before history. Equally now and then his course is of good and needed example. Without dwelling upon it too much for the interest of his own dignity, Mr. Welles lets us know one of the causes why he got fewer good words than some others, and was, indeed, roundly abused at the time when Mr. Cameron, for example, was nothing less than our "patriotic and energetic War Minister." In speaking of the naval successes at Hatteras Inlet and at Port Royal, he says that

"Both expeditions originated in the Navy Department. They were quietly planned, and matured with a secrecy unknown to the military operations of that period. Hence, probably, the correspondents and writers of the day, who usually obtained their first information of events through the War Department, or from army officers, misstated and gave erroneous accounts of these and other expeditions, and not unfrequently awarded credit to military officers which strictly belonged to naval commanders. Naval officers were invariably prohibited from giving information of naval movements for publication, and newspaper correspondents, always inquisitive, and generally intelligent, were, for this reason, carefully excluded from the expeditions, and, as far as possible, from all knowledge in regard to naval operations."

Hence arose heartburnings, and piques, and perversions of fact, which are now embodied in the histories, so that we have, for instance, not "Flag-officer Stringham's Expedition to Hatteras," but "Maj.-Gen. B. F. Butler's Expedition to Hatteras," and the like. There is to be more of Mr. Welles's article, which will be more interesting in the next instalments than in this, but which is good from the beginning.

Another article relating to the war is by General Imboden, of the Confederate service, who sets down with straightforwardness some reminiscences of General Lee and General "Stonewall" Jackson, which are not particularly valuable, but which it is, nevertheless, well and pleasant to have. General Lee, it appears, was certainly never sanguine of success for the Confederacy, and we should say, taking General Imboden's testimony as conclusive, that he can hardly be said to have ever been so much as hopeful. Of General Imboden's reminiscences, also, there are to be further instalments.

We believe there is not much else in this number of the *Galaxy* that will attract any but habitual readers of magazines. Mr. "Carl Benson" has some sensible remarks to make on various topics; but there surely seems to be a vastly disproportionate deal of creaking in the vehicle that carries his thought when the intrinsic value of the thought is considered. There is actually a woodcut, "a simple diagram," to illustrate the truth, or rather the occasional falsity, of the saying, that a man is known by the company he keeps—or "the Noscitur a Socio Fallacy," as "Carl Benson" calls it. "Socius," he justly remarks, must be construed with a certain reasonable sense of proximity. The example of a man who lives in Russia, or who lived two centuries ago, will hardly be relevant for the State of Massachusetts, A.D. 1871. Still, as we say, if there is sometimes something to laugh at in "Carl Benson's" way of presenting his opinions, they usually embody some sound sense. Another good article is on "The Pike Poetry"; that is to say, its criticism of Messrs. Hay and Harte is not good criticism of poetry; but it appears to be honest and careful throughout, as well as right more often than wrong. It is, however, easily possible to be radically wrong in criticism of poetry, and, when that happens, to be right in places is not to make good criticism, but is only to be very much less tiresome than the mass of writers who welcome or denounce new poets on account of their religious views, say, or for this or that entirely superficial reason. Why, for instance, in talking about poetry, should one say that there is more poetry in Mr. Harte's stories than he



will put into his verses if he writes verses for a lifetime? The fact seems to be that in all essentials the verses and the prose are one and the same thing, but that the author succeeds in being perhaps more objective and less sentimentalistic in his verse than in his prose, while, on the other hand, he makes more obvious failures in verse than in prose, because in his verse he attempts poetry, and has more or less ill-success according as he goes further or less far away from the figure-painting which is the work he does best, if, indeed, it is not the only work in which he can be said to do well at all. In other words, it should not be said that either in prose or verse has he anything to do with poetry, nor that "The Heathen Chinese," with its moral, is not much better than all the "dialect" verse and all the noble-gambler prose. The sentiment or sentimentality in that piece is nothing; and the figure-painting is coarse and hasty enough; but what there is of the latter, conjoined with the fortunate embodiment in phrase of the brutal Caucasian "platform-plank," that "we are ruined by Chinese cheap labor," and that as soon as we cannot cheat the Chinaman, we must knock him on the head—these two elements make "The Heathen Chinese" infinitely better than anything else of Mr. Harte's. The cynical humor and brutality under the exaggeration of Truthful James's "Society upon the Stanislaus," entitle that to the second place; and these two of Mr. Harte's performances are confirmatory of the opinion, to put it briefly, that the less of himself there is in his work, the stronger and better it is likely to be. However, we had only meant to say that the *Galaxy* critic of "The Pike Poetry" says several things worth hearing.

For the rest, the *Galaxy* has more of Anthony Trollope's and Mrs. Edwards's continued stories; a short story by H. James, jr., not of his best; a scientific miscellany; a "Galaxy Club Room," or humorous department, of a feebleness that forebodes demise; and an article by Mr. Justin McCarthy on "The Two Newmans." This last is like most that is written by Mr. McCarthy, who must be extremely useful about a magazine office. Apparently he would write with equal readiness on Miss Pauline Markham or the procession of the equinoxes, accordingly as there should be demand at the news-depots for articles on the one more than the other. John Henry Newman and F. W. Newman, "*par nobile fratrum*," as he calls them, form Mr. McCarthy's subject in this article. We may say here that it is doubtless a mistake to suppose that J. H. Newman is less known in this country than his brother. There are the old Abolition circles, to be sure, who knew Professor Newman as a sincere and courageous though crotchety "friend of the country"; but, on the other hand, there are the Anglicans whose communion J. H. Newman left, and the Romanists whose communion he joined, amid loud welcomings from them and loud laments from his former fellow-believers, and, besides these, there are large numbers of readers of the best English literature, or, rather, the best English writing of our time, who hold J. H. Newman in honor while they know his brother mainly as one of the translators of Homer. This is not a great matter. But a man should be on his guard even when he is writing only for the magazines. Again, Mr. Disraeli is a very wicked man, no doubt, and no supporter of Garibaldi, as Mr. McCarthy is, but that is not a reason for saying that he does not know English. In his "Lothair," Disraeli says that Newman's going over to Rome is an act that "has been apologized for, but never explained"; in spite of which witticism, Disraeli probably has Latin and Greek and English enough to know that Newman's "Apologia" was not an apology for his course, but a defence of it. And, indeed, not all men who have read that book will say that Disraeli's characterization of it is unjust or untrue. It may be worth while, too, to say, as we think we have said before, that the often-quoted passage in praise of "England's Saxon Bible" of which Mr. McCarthy speaks, was not written by Newman, but by F. W. Faber. That is not the sort of "noble and touching apostrophe" that Newman writes.

In Lippincott's, Mr. Whympers "Scrambles Among the Alps" continues to be the most readable article, and the illustrations also are good, being well reproduced. In these chapters Mr. Whympers gets a fall of two hundred feet or so, not sheer, but in seven or eight twenty-five foot stages, and which he says was, in some respects, not disagreeable. His memory, however, is not now so retentive as formerly, and he lost permanently the tips of both his ears, as well as received some cuts, which were painful temporarily, for the guides rubbed vinegar and salt into them, after the custom of the country. "Ouida" begins a short story which has promise, and which will be finished in the December number of the magazine. Mr. Charles Warren Stoddard writes with customary smoothness and good feeling of "A California Seaside"; and Mr. Amasa

Walker, in a short article which will bear quotation in all the country papers, asserts and maintains that the currency of this country to-day has no more relation to gold than it has to potatoes, and enquires how long the people are going to tolerate this engine of impoverishment.

Readers of Tennyson will be pleased with Mr. E. C. Stedman's article in the *Atlantic*. Mr. Stedman, who has been for some years working at "Theocritus," undertakes to point out those poems and passages of the Sicilian which Mr. Tennyson has done him the honor—that appears to be somewhere near Mr. Stedman's view of the matter—to make use of in writing "Dora," and "Audley Court," and "Edwin Morris," and "The Golden Year," and "Walking to the Mail," etc. So far as we know, Mr. Stedman discovers in "Theocritus" more of Mr. Tennyson than has ever before been found of him in one place. Mr. Stedman, we are glad to see, is a warm friend of "a broad and elegant culture," as distinguished from that idolatrous worship of the Second Aorist which is preached by so many instructors in our so-called institutions of learning.

Other articles in the November *Atlantic* are the Fifth Part of Mr. Howells's "Wedding Journey," with the disastrous quarrel of the newly-wedded pair—Isabella going upstairs to her room, away from Basil, and sitting down desolate "with all her things on"; more of Mr. De Forest's "Kate Beaumont," and of Mr. Fields's "Whispering Gallery," which still talks of Dickens; an article by Mr. Clarence King about a family of Missouri Pike County wanderers, whom he fell in with somewhere in the Far West; the Fourth Part of Mr. H. James's "Watch and Ward"; some rather laudatory book-notices, and a description of the mad-houses in Constantinople which bears the title of "The Bedlams of Stamboul." This last has a quantity of desultory but apparently correct and reasonably useful information, conveyed with a sort of smartness that is not altogether pleasant, nor wholly unpleasant. It reminds one of the conversation of the mess-room, where, in the scarcity of topics of conversation such as can be freely handled in an unselected company of persons who yet must live together, each gentleman is expected to play the good companion, and pay a fair quota of such jokes as he may be favored with into a fund for the general amusement. Mr. King's article has evident truthfulness, but gives, too, the impression of being overcharged with "local color." The young Yankee artist, as set before us by Mr. King, has something of that look of incredibility which the fact that he actually existed does but little to diminish. One should be able to make affidavit to one's description of such a person, or else should utilize him. In "Kate Beaumont" the interest flags, there never having been much in any of the other characters, and the reader having had almost too much of Peyton Beaumont's movable eyebrows, and chivalry, and brandy-and-water, and of the pistol-practice and whiskey-drinking of his sons and neighbors. Neither the heroine, nor the hero, nor the plot is of a kind to make one interest one's self too long in the views of Southern society, which Mr. De Forest certainly does give with very much truthfulness. This admirably serviceable material for a volume or two of Southern sketches, wholly or partly true to fact, is of less service to him in a novel; yet it is upon this material that his novels, if we are to judge by "Kate Beaumont" and its predecessor, must, to a very great extent, depend for any noticeable goodness that they will have.

*Old and New* promises, in that prefatory part of it called "Old and New," a novel which is to be written jointly by Mrs. Stowe, Miss Susan Hale, Mr. F. W. Loring, Mrs. A. D. T. Whitney, Rev. E. E. Hale, and a Mr. Perkins. The "Record of Progress" has an obituary notice, by J. P. Lesley, of the late Mr. Joseph Lyman, who appears to have been in many important respects a man worthy of admiration. In the same department of the magazine may be found something, by Mr. Francis Gardner, about the system of pronouncing Latin now finding favor in this country and England; a lively description of stock-raising under difficulties in Newton County, Missouri, where a Boston dry-goods man has been trying his hand at roughing it in the roughest fashion; and a word or two about Scottish preparatory schools. The body of the magazine is filled with contributions by Dr. H. W. Bellows ("The Modern English Novel"); George Macdonald ("The Vicar's Daughter," a serial story); Rev. E. E. Hale ("Ups and Downs," a serial story); poetry, by "H. H.," Rev. J. W. Chadwick, and others; "Talk About the Tea-Table," by some writer to us unknown; some reviews of books, and various other matters which we do not know that we can describe very accurately.

In Harper's, Mr. Curtis quotes some verses from a forthcoming volume of poems by Mr. W. E. Channing, a nephew of the famous Unitarian clergyman of that name, and a man known to one set of readers as a companion of Margaret Fuller's, Hawthorne's, Thoreau's, and Emerson's, and

to quite another set, and a much smaller one we suppose, and an inferior one, as a verse-maker, laughed at by Poe in his now almost forgotten criticisms. It might not be hard to find a reason why Mr. Curtis, who knew Mr. Channing when both were younger, should rate him higher than he will be rated by any one who, coming entirely from the outside, attempts to form a judgment of the poet on his merits. Who can judge dispassionately of poems that were a part of his youth—a part, too, of that manhood which we have in youth, in dreams, the poet helping us—and which never comes so near realization as when, with him to help us, we dream of what is to be? But if the value of Mr. Channing's poetry may fairly be measured by these specimens which Mr. Curtis offers for consideration, we should say that his verses reveal a native capacity for receiving poetical impressions; and an ability to express them when they either are such as may be expressed by one or two more or less incoherent poetical images; or when they are such as require to be expressed with more or less certainty and precision than a too brief snatch of rhythmical melody vaguely can afford. Thoughts of wide comprehension and of a depth and subtlety not usual; purity of feeling, without any alloy of earthiness, and yet intense; fine susceptibility and much delicacy of sympathy with nature if not with man—these, it is probable, are among Mr. Channing's endowments. But it would seem that talk he cannot. It may be doubted if he can talk even to himself; or, at any rate, if he has ever had the patience to do so, setting clearly before his mind his thought and feeling. However that may be, if poems of the kind before us are the only kind that Mr. Channing writes, it seems plain that he cannot talk very intelligibly to others certainly, unless when he has other helps than printed words can give him. In the face of this fundamental limitation of his nature—or his nature's refusal to submit to limitations, if that is a better way of putting it—it is not much worth while to say with Poe, that metres and the useful art of grammar Mr. Channing is apt to disregard. That he does; but his real difficulties are deeper, and these but the surface indications of the real ones. To his private friends he may be much—we may be allowed to say so; for it is his avowed private friends who bespeak for him the respect of the general public. But the world has to look for a poet in his pages. That it will find nothing in Mr. Channing's pages we are not able to say; but for whatever reason, whether that there was not much in him, or that, like some of his school, he was better pleased to see his thoughts and feelings pass before him than he was to reduce them to order and train them—for whatever reason, less will be found in him by the world at large than some have been asserting would

be found. Yet this little poem, entitled "Gifts," is too good to throw away:

"A dropping shower of spray  
Filled with a beam of light,  
The breath of some soft day,  
The groves by wan moonlight,  
Some river's flow,  
Some falling snow,  
Some bird's swift flight,  
A summer field o'erstrewn  
With gay and laughing flowers,  
And shepherd's clocks half-blown,  
That tell the merry hours;  
The waving grain,  
The soft spring rain,  
Are these things ours?"

Other articles in *Harper's* are an unexpectedly good one, considering the quantities that have been written about it, on the Oberammergau Passion Play; an illustrated article describing the pretty town of Stockbridge, Massachusetts; "Edouard Frère and Sympathetic Art in France," by a writer who appears to us to make quite as free with Mr. Ruskin in print as most people would like to have done in their case by a person whom they had received with hospitality; a piece of verse by J. G. Saxe; and much other matter.

## BOOKS OF THE WEEK.

Authors.—Titles.	Publishers.—Prices.
Abbott (J. S. C.), History of Louis Philippe.....	(Harper & Bros.)
Abbot (E.), Literature of the Doctrine of a Future Life.....	(W. J. Widdleton) \$2 00
Aytoun (W. E.) and Martin (T.), Poems and Ballads of Goethe.....	(Holt & Williams) 1 50
Ball (Prof. R. S.), Experimental Mechanics.....	(Macmillan & Co.) 6 00
Bryant (W. C.), Poems.....	(D. Appleton & Co.)
Catholic Family Almanac.....	(Catholic Pub. Soc.) 25
Chambers (Dr. T. K.), Restorative Medicine.....	(Henry C. Lea)
Demonstration in Honor of the 25th Anniversary of Pius IX.....	(J. Murphy & Co.)
Dickens (C.), Old Curiosity Shop, and American Notes.....	(D. Appleton & Co.) 75
Farjeon (B. L.), Joshua Marvel: a Tale, swd.....	(Harper & Bros.) 40
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Illustrirte Kriegs-Chronik, Part 27, swd.....	(B. Westermann & Co.)
Im neuen Reich, Nos. 38, 39, swd.....	(L. W. Schmidt)
Jowett (B.), Dialogues of Plato, 4 vols.....	(Charles Scribner & Co.) 12 00
Lazarus (Emma), Admetus: a Poem.....	(Hurd & Houghton) 2 00
Letter to an Alarmed Friend, swd.....	(Pott, Young & Co.) 65
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Sand (Mme. George), Monsieur Antoine, swd.....	(T. B. Peterson & Bros.) 75
Fanchon, the Cricket.....	1 00
Smith (P.), Ancient History of the East.....	(Harper & Bros.)
Taine (H.), Art in Greece.....	(Holt & Williams) 1 25
The Land of Lorne.....	(F. B. Felt & Co.) 2 00
The Workshop, No. 10, swd.....	(E. Steiger)
The Great Fires in Chicago and the West, swd.....	(J. W. Goodspeed) 50
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